

March 20, 2017

To: Town of Durham Zoning Board of Adjustment

From: Scott G. Snyder, 6 Beards Landing, Durham, NH, 03824

Regarding: The request made to the Town of Durham Zoning Board of Adjustments submitted by Young Drive LLC, Seabrook, New Hampshire, for all variances requested through the APPLICATION FOR VARIANCES from Article XII, Section 175-54, Article XIII, Sections 175-59(A)(2)(d), 175-61 and 175-62, and Article IX, Section 175-46(F)(1&2) of the Durham Zoning Ordinance to allow for the construction of Elderly Housing Multi-Unit buildings greater than 30 feet in height, within the Wetland Conservation Overlay District, to allow structures within the wetland setback, and to allow parking between the front of the buildings and the property line and street as shown on Tax Map 4, Lots 42-2 through 42-17 inclusive, and Lot 47-0, are located on Young Drive in the Coe's Corner Zoning District,

Let me begin by saying that I have signed and agree to the statement titled A Collective Statement in Opposition of the Proposed Variances for the Young Drive Development Durham, NH Zoning Board Meeting 3/21/2017.

Regarding the request made to the Town of Durham Zoning Board of Adjustments submitted by Young Drive LLC, Seabrook, New Hampshire, for all variances requested through the APPLICATION FOR VARIANCES from Article XII, Section 175-54, Article XIII, Sections 175-59(A)(2)(d), 175-61 and 175-62, and Article IX, Section 175-46(F)(1&2) of the Durham Zoning Ordinance to allow for the construction of Elderly Housing Multi-Unit buildings greater than 30 feet in height, within the Wetland Conservation Overlay District, to allow structures within the wetland setback, and to allow parking between the front of the buildings and the property line and street as shown on Tax Map 4, Lots 42-2 through 42-17 inclusive, and Lot 47-0, are located on Young Drive in the Coe's Corner Zoning District,

The three (3) variances requested are inter-connected, and denying the first variance known as A VARIANCE FROM ARTICLE XII, SECTION 175-54 OF THE ZONING ORDINANCE TO PERMIT A BUILDING GREATER THAN 30 FEET IN HEIGHT IN THE COES CORNER DISTRICT will allow further diligent exploration which will remove the need for or materially change the remaining two variances those two remaining requests for variance being the second variance known as A VARIANCE FROM ARTICLE XIII SECTION 175-59, 175-61, 175-62 OF THE ZONING ORDINANCE TO PERMIT ELDERLY HOUSING MULTI UNIT IN THE WETLAND CONSERVATION OVERLAY (WCO) DISTRICT AND ALLOW FOR STRUCTURES WITHIN THE 75 FOOT BUFFER and the third variance known as A VARIANCE FROM SECTION 175-46 OF THE ZONING ORDINANCE TO PERMIT PARKING BETWEEN THE FRONT OF THE BUILDING AND THE PROPERTY LINE IN THE COE'S CORNER DISTRICT.

All three variances should be denied based on, in summary, the following three points:

1. The petitioner failed to sufficiently demonstrate beyond a reasonable doubt their justification for these variances and
2. The development plan as currently proposed is not in keeping with the vision for the Young Drive neighborhood as noted by the community members in the statement titled "A Collective Statement in Opposition of the Proposed Variances For the Young Drive Development Durham, NH Zoning Board Meeting 3/21/2017" nor by the Town of Durham Master Plan - Current Plan ADOPTED November 18, 2015 and

3. Young Drive LLC has not acted in good faith by threatening, to mean with intent to cause a feeling of vulnerability or risk, the Town of Durham and the community with 'less desirable alternatives' to mean student housing, should their petition for development and variances not be approved unencumbered. This behavior continues in the petition for variances thereby tainting the integrity of their petition and this process for determining their request for variances.

To the Town of Durham Zoning Board of Adjustment, regarding the request for A VARIANCE FROM ARTICLE XII, SECTION 175-54 OF THE ZONING ORDINANCE TO PERMIT A BUILDING GREATER THAN 30 FEET IN HEIGHT IN THE COES CORNER DISTRICT as requested by Young Drive LLC, the petition should be denied because the petition did not meet the requisite requirements for granting the variance, those requirements being:

1. NO DECREASE IN VALUE OF SURROUNDING PROPERTIES WOULD BE SUFFERED
2. GRANTING THE VARIANCE WOULD NOT BE CONTRARY TO THE PUBLIC INTEREST
3. OWING TO THE SPECIAL CONDITIONS OF THE PROPERTY THAT DISTINGUISH IT FROM OTHER PROPERTIES IN THE AREA, DENIAL OF THE VARIANCE WOULD RESULT IN UNNECESSARY HARDSHIP BECAUSE 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
4. GRANTING THE VARIANCE WOULD NOT BE CONTRARY TO THE PUBLIC INTEREST
5. THE USE WILL NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE ORDINANCE

1. NO DECREASE IN VALUE OF SURROUNDING PROPERTIES WOULD BE SUFFERED

As noted by the petitioner, Young Drive LLC: If the Variance is granted construction could begin on a multi unit Elderly Housing project which is allowed as a Conditional Use in the Coe's Corner zoning district. The addition of this type of facility increases the value of the surrounding properties as well as benefits the community as a whole.

- A. Contrary to Young Drive LLC's comments, the request for variance from the Town of Durham ARTICLE XII, SECTION 175-54 OF THE ZONING ORDINANCE is adverse to the surrounding structures and the community of Durham resulting in a decrease in the value of the surrounding properties and is not in keeping with the types of structures found within the community by forever changing the character, beauty and view from my home at 6 Beards landing and most if not all of the other notified abutters of the Young Drive neighborhood based on the size, scope and scale of the redevelopment plan to construct 3 (three) buildings of 4 (four) stories each in addition to 4 (four) townhouses. It is the natural beauty of Beards Creek and the surrounding lands that makes Beards Creek and the other neighborhoods surrounding the Young Drive neighborhood as well as the Young Drive neighborhood itself so desirable, and is something that must be preserved. Further my property and home located at 6 Beards Landing, Durham, NH is located adjacent to the Young Drive neighborhood separated by Beard's Creek. The view from my back yard with a rendering of the proposed multi-unit elderly housing development was demonstrated as view 5 in the preliminary site plan (https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_board/page/47151/updated_letter_of_intent_2-3-17.pdf) and clearly demonstrates a material change in aesthetic natural beauty. The natural beauty of Beards Creek, the flora and fauna that resides in and around and the balance of structure and nature in the Young Drive neighborhood and the surrounding neighborhoods equates to value because it is deemed desirable to have this in addition to proximity with the Town of Durham. This value would be diminished by abruptly and dramatically altering this view by the proposed development of multi-unit elderly housing comprised of the proposed 3 (three) 4 (four) story buildings, 4 (four) townhouse style condominiums and a recreation building.



Unaltered photograph from 6 Beards Landing Durham NH looking onto the Young Drive neighborhood across Beards Creek



VIEW 5

<p>LOWE ASSOCIATES Architects, Inc.</p> <p>643 VFW Parkway Suite 200 Chestnut Hill Massachusetts 02467 Tel: (617) 323-0078 Fax: (617) 323-8670</p>	
<p>PROPOSED 55+ HOUSING FOR YOUNG DRIVE</p>	
<p>DURHAM NEW HAMPSHIRE</p>	

View 5 demonstrating the artistic rendering of the proposed development of multi-unit elderly housing in the Young Drive neighborhood as seen from 6 Beards Landing, Durham

- B. The Town of Durham NH Wildlife Action Plan Habitat indicates both highest ranked habitats and supporting landscapes including the Young Drive neighborhood and adjacent lands. This further indicates the recognized sensitivity of this land and the imperative to preserve it.



https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_and_zoning/page/18691/m-9_wildlifeactionplan.pdf

- C. The Town of Durham NH Wetlands Map indicates National Wetlands Inventory and Hydric Solis including the Young Drive neighborhood and adjacent lands. This further indicates the recognized sensitivity of this land and the imperative to preserve it.



https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_and_zoning/page/18691/m-6_wetlands.pdf

2. GRANTING THE VARIANCE WOULD NOT BE CONTRARY TO THE PUBLIC INTEREST

As noted by the petitioner, Young Drive, LLC: Variances involving height restrictions are for the health, safety, and welfare of the community. This request is for a minimal Variance from the height restrictions in the Coe's Corner zoning district. The allowance requested would not have an adverse impact in the district nor on the community at large. The height variance would be in keeping with regulations promulgated by the building and life safety codes to ensure that the safety needs of the occupants as well as the neighbors is maintained. The proposed facility and planned height is not averse to the surrounding structures or the community of Durham as a whole and would be in keeping with types of structures found within the community.

- A. The developer contends that building height for the purposes of this proposed plan have bearing on health, safety and welfare of the community and building life and safety codes. This however, is not founded. Health, safety and welfare of the community and building life and safety codes are not dependent on building height and Young Drive LLC fails to substantiate their position to this effect.
- B. Further, health, safety and welfare of the community and building life and safety codes would be contrary to public interest. Young Drive, LLC has requested a change in land use from student housing to multi-unit elderly housing. As currently proposed this would result in both a change in land use which would in turn result in the redevelopment of the Young Drive neighborhood. The Developer has proposed 3 (three) 4 (four) story buildings, 4 (four) townhouse style condominiums and a recreation building in their redevelopment plan. While the Developer will not confirm the precise number of units, in discussion the estimated number of units includes 128 units in the proposed 3 (three) 4 (four) story buildings and 4 (four) units in the townhouse condominiums for a total of 132 (one hundred and thirty two) units. Based on likely demographic occupancy based on 55+ housing including two (2) adults and one (1) child is a minimum assumed occupancy of 3 (three) souls per each 2 bedroom unit, and a presumed maximum total occupancy of 396 (three hundred and ninety six). The increased population density that results from the proposed development of multi-unit elderly housing with a maximum occupancy of 396 may have a negative effect on the health, safety and welfare of the community by creating a population density. This population density will cause unforeseen consequences by this change in land use and the infrastructure needed to support the proposed dramatic increase in population density including the impact on and to provide services to support said use, ambient noise, traffic, exterior lighting and otherwise.
- C. There are few if any 4 (four) story structures in the Town of Durham, and further this kind and type of multi-unit apartment style buildings and density is exactly opposite to the Town of Durham Master Plan - Current Plan ADOPTED November 18, 2015. In that document there are two key excerpts regarding land use and housing which are in direct conflict with the plan to redevelop the Young Drive neighborhood into Multi-Unit Elderly Housing:

“Land Use

1. Maintain this zoning district to allow for those commercial uses that complement the scenic and low density character of the corridor; prohibit most, if not all, retail uses.
2. Encourage or require that new businesses reuse existing houses or design compatibly with the district when new construction is proposed. Denser, infill development should be designed to resemble a large house, rather than an apartment block.”

“Housing

Promotion of Young Drive homes as viable starter home options for young families and professionals.”

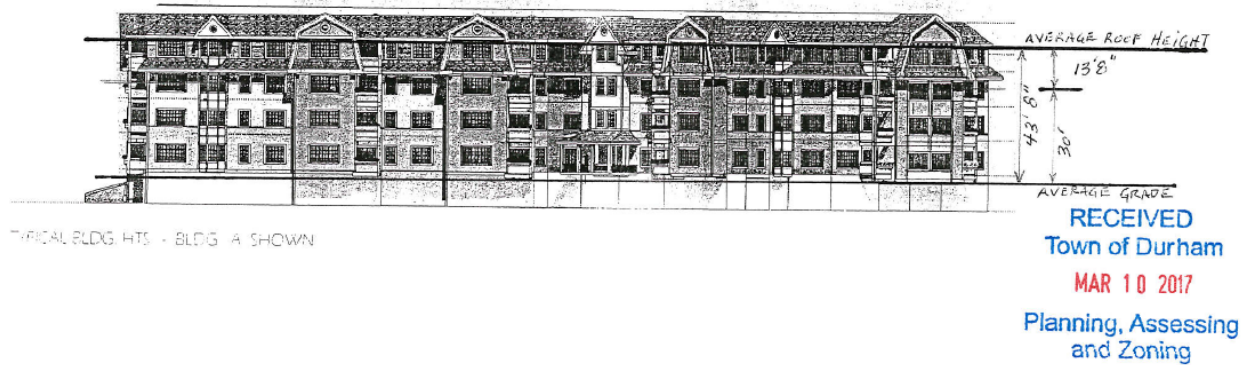
https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_and_zoning/page/18691/final_consolidated_mp.pdf pp.DCC-29

3. OWING TO THE SPECIAL CONDITIONS OF THE PROPERTY THAT DISTINGUISH IT FROM OTHER PROPERTIES IN THE AREA, DENIAL OF THE VARIANCE WOULD RESULT IN UNNECESSARY HARDSHIP

As noted by the petitioner, Young Drive, LLC: The statutory authority to set restrictions, specifically height standards is for the health, safety, and welfare of the community at large, including the prospective inhabitants of the proposed use. This request for a Variance from the restrictions on height is asking for a minimal diversion from the set restriction even keeping in mind that the Planning Board has the authority to allow an extra five (5) feet in this district should they deem it fit and proper. This approved Variance would provide more benefit to the community than would the strict application of the zoning restriction in that it would allow a more favorable facility that what can be currently placed on the property. Granting the Variance would in effect allow for a positive outcome that is more beneficial to the Durham community than would a denial of the request. If the request is granted all safety and health conditions would be adhered to which would be in keeping with the intent of the ordinance.

There is demonstrated unnecessary hardship imposed on the Town of Durham and the community if this variance were approved.

- A. The developer contends that building height for the purposes of this proposed plan have bearing on health, safety and welfare of the community and building life and safety codes. This however, is not founded. Health, safety and welfare of the community and building life and safety codes are not dependent on building height and Young Drive LLC fails to substantiate their position to this effect.
- B. Granting of the variance would in fact result in unnecessary hardship to the Town of Durham and the community. This variance is for a 4 (four) story building with a proposed height of 43’ 8”, a full 13’ 8” more than the 30’ the zoning ordinance permits. Meaning this variance is to allow construction of a 4 (four) story building. Young Drive LLC does not demonstrated an unnecessary hardship by reducing the number of stories to conform to the Town of Durham ARTICLE XII, SECTION 175-54 OF THE ZONING ORDINANCE that outweighs the hardship imposed on the Town of Durham and the residents in neighborhoods that abut the Young Drive neighborhood where the proposed redevelopment plan would be constructed. Young Drive LLC could submit a redevelopment plan which achieves acceptable land use (is in the mutual interests of the Town of Durham and the community) and reasonably conforms to the Town of Durham ARTICLE XII, SECTION 175-54 OF THE ZONING ORDINANCE, but chooses not.



THE PROPOSED USE IS A REASONABLE ONE

As noted by the petitioner, Young Drive, LLC: The proposed use is what was envisioned as a likely addition to the community. The variance is asking for a minimal height allowance to enable an Elderly Housing complex to be built in the area which not only benefits the neighborhood, but the region as a whole.

The proposed use is not reasonable because:

- A. Young Drive LLC imposes their opinion but fails to demonstrate despite many requests for demonstration during the pre-design period with the Town of Durham Planning Board that building an Elderly Housing complex in the area (to mean the Young Drive neighborhood) would benefit the neighborhood and the region as a whole.
- B. The proposed use is not reasonable because the proposed kind and type of multi-unit apartment style buildings and density is exactly opposite to the Town of Durham Master Plan - Current Plan ADOPTED November 18, 2015. In that document there are two key excerpts regarding land use and housing which are in direct conflict with the plan to redevelop the Young Drive neighborhood into Multi-Unit Elderly Housing:

“Land Use

- 1. Maintain this zoning district to allow for those commercial uses that complement the scenic and low density character of the corridor; prohibit most, if not all, retail uses.
- 2. Encourage or require that new businesses reuse existing houses or design compatibly with the district when new construction is proposed. Denser, infill development should be designed to resemble a large house, rather than an apartment block.”

“Housing

Promotion of Young Drive homes as viable starter home options for young families and professionals.”

https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_and_zoning/page/18691/final_consolidated_mp.pdf pp.DCC-29

4. BY GRANTING THE VARIANCE SUBSTANTIAL JUSTICE WOULD BE DONE

As noted by the petitioner, Young Drive, LLC: Without this Variance the owners of the property cannot develop the proposed Elderly Housing complex and are left with less desirable alternatives for themselves and the community at large. The request is for a minimal deviation from the current restrictions and is a very reasonable request. The granting of the variance allows the developers to enhance the current use of the property and would give the community a benefit that could not otherwise be found given the current zoning restrictions.

Substantial justice would not be done to the Town of Durham or the community by granting this variance because:

- A. Young Drive LLC failed to support their assertion that without this Variance they would not be able to develop the proposed Elderly House complex despite numerous requests during the pre-planning design phase with the Town of Durham Planning Board. The community is left to believe that the only justification for the size scope and scale of the proposed development is for the financial gain of the developer Young Drive LLC at the expense of the Town of Durham and the community.
- B. It is highly inappropriate for the petitioner to threaten (to mean act with intent to cause a feeling of vulnerability or risk) the Town of Durham and the community with 'less desirable alternatives' to mean student housing, should their petition for development and variances not be approved unencumbered. This behavior continues in the petition for variances thereby tainting the integrity of their petition and this process for determining their request for variances. I respectfully submit the Town of Durham Zoning Board of Adjustment disregard any other proposed development plan and assess this request on its own merits.

5. THE USE WILL NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE ORDINANCE BECAUSE:

As noted by the petitioner, Young Drive, LLC: The primary purpose and legislative grant of authority to set height restrictions is for the health, safety, and welfare of the community at large. A secondary purpose for height restrictions is to keep structures as uniform as possible within certain borders. This requested Variance is not asking for an unreasonable variation from the existing allowed height within the district. As a practical matter, if the variance is granted it would not create an abnormal structure within the area and would be in keeping with community atmosphere.

Contrary to Young Drive LLC's comments, the request for variance is adverse to the surrounding structures and the community of Durham resulting in a decrease in the value of the surrounding properties because:

- A. The proposed development plan submitted by Young Drive LLC and is not in keeping with the types of structures found within the community by forever changing the character, beauty and view from my home at 6 Beards landing and most if not all of the other notified abutters of the Young Drive neighborhood based on the size, scope and scale of the redevelopment plan to construct 3 (three)

buildings of 4 (four) stories each in addition to 4 (four) townhouses. It is the natural beauty of Beards Creek and the surrounding lands that makes Beards Creek and the other neighborhoods surrounding the Young Drive neighborhood as well as the Young Drive neighborhood itself so desirable, and is something that must be preserved. Further my property and home located at 6 Beards Landing, Durham, NH is located adjacent to the Young Drive neighborhood separated by Beard's Creek. The view from my back yard with a rendering of the proposed multi-unit elderly housing development was demonstrated as view 5 in the preliminary site plan (https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_board/page/47151/updated_letter_of_intent_2-3-17.pdf) and clearly demonstrates a material change in aesthetic natural beauty. The natural beauty of Beards Creek, the flora and fauna that resides in and around and the balance of structure and nature in the Young Drive neighborhood and the surrounding neighborhoods equates to value because it is deemed desirable to have this in addition to proximity with the Town of Durham. This value would be diminished by abruptly and dramatically altering this view by the proposed development of multi-unit elderly housing comprised of the proposed 3 (three) 4 (four) story buildings, 4 (four) townhouse style condominiums and a recreation building.



Unaltered photograph from 6 Beards Landing Durham NH looking onto the Young Drive neighborhood across Beards Creek



VIEW 5

LOWE
ASSOCIATES
Architects, Inc.

643 VFW Parkway
Suite 200
Chestnut Hill
Massachusetts 02467
Tel: (617) 323-6078
Fax: (617) 323-8670

PROPOSED 55+
HOUSING FOR
YOUNG
DRIVE

DURHAM
NEW HAMPSHIRE

View 5 demonstrating the artistic rendering of the proposed development of multi-unit elderly housing in the Young Drive neighborhood as seen from 6 Beards Landing, Durham

Regarding the remaining two requests for variance, those requests being

A VARIANCE FROM SECTION 175-46 OF THE ZONING ORDINANCE TO PERMIT PARKING BETWEEN THE FRONT OF THE BUILDING AND THE PROPERTY LINE IN THE COE'S CORNER DISTRICT and A VARIANCE FROM ARTICLE XIII SECTION 175-59, 175-61, 175-62 OF THE ZONING ORDINANCE TO PERMIT ELDERLY HOUSING MULTI UNIT IN THE WETLAND CONSERVATION OVERLAY (WCO) DISTRICT AND ALLOW FOR STRUCTURES WITHIN THE 75 FOOT BUFFER, denying the first variance known as A VARIANCE FROM ARTICLE XII, SECTION 175-54 OF THE ZONING ORDINANCE TO PERMIT A BUILDING GREATER THAN 30 FEET IN HEIGHT IN THE COES CORNER DISTRICT would allow for a diligent discussion and modifications to the overall development plan. The likely result would be a decrease in the overall size, scope and scale of the development plan which would negate or material decrease the need for the requested remaining two variance. For this reason the remaining two variances should be denied.

For these reasons I respectfully request that the Town of Durham Zoning Board of Adjustments **deny** the petitions submitted by Young Drive LLC, Seabrook, New Hampshire, for an APPLICATION FOR VARIANCES from Article XII, Section 175-54, Article XIII, Sections 175-59(A)(2)(d), 175-61 and 175-62, and Article IX, Section 175-46(F)(1&2) of the Durham Zoning Ordinance to allow for the construction of Elderly Housing Multi-Unit buildings greater than 30 feet in height, within the Wetland Conservation Overlay District, to allow structures within the wetland setback, and to allow parking between the front of the buildings and the property line and street as shown on Tax Map 4, Lots 42-2 through 42-17 inclusive, and Lot 47-0, are located on Young Drive in the Coe's Corner Zoning District.

In conclusion, if approve and once constructed, the Young Drive neighborhood will forever more be changed into multi-unit apartment style elderly housing and can realistically never be returned to its initial purpose as a family neighborhood for young professionals. We have an opportunity to return Young Drive to its original intended purpose, as a neighborhood for professional families and the Town of Durham and its community should vigorously work with Young Drive LLC and any other potential developer to achieve this goal.

Respectfully,

Mr. Scott G. Snyder
6 Beards Landing
Durham, NH, 03824