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Town of Durham

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Planning, Assessing  
and Zoning

Nancy P. Sandberg Trust  
15 Langley Road  
Durham NH 03824

8 June 2017

Durham Zoning Board of Adjustment  
8 Newmarket Road  
Durham NH 03824

**RE: ZBA Application submitted by MJS Engineering PC for Eric & Amber Sirles (hereinafter “the Applicant”) 12 Mathes Cove Road Map 12 Lot 9-12 Special Exception request from Article XIII Section 175-62 in accordance with the provisions of Article IX Section 175-29B of the Durham Zoning Ordinance.**

Dear Mr. Chairman and Members of the Board,

Nancy and I are the owners in trust of the property at Map 12, Lot 11-2, that abuts the property cited in the above referenced Application.

The lot at 12 Mathes Cove Road is part of an established subdivision with 13 existing homes situated on Mathes Cove Road and Langley Road. The Lots range in size from 1.12 acres to 2.5 acres with an average size of 1.89 acres. The lot in question of 1.82 acres is larger than 7 of the 13 developed lots. (See attached data sheet)

The Applicant proposes a 5-bedroom home with a footprint of approximately 2407 sq. ft. as derived from the scale drawing submitted. The 2407 sq. ft. footprint is larger than all the existing 1<sup>st</sup> floor areas in the development.

According to Town records, in the Mathes Cove sub-division only 2 of the 13 existing homes have 5-bedrooms.

The applicant proposes to build a home with a footprint of approximately 2407 sq. ft. representing 3.03% of the 1.82 acre subject lot. On a percentage basis the proposed footprint represents a greater percentage of lot size than all of the existing developed lots. (See attached datasheet)

We submit that the Applicant’s proposal presents self-inflicted hardships resulting from an oversized development proposal. The “requirement” for a “Special Exception” in this case is not the result of zoning regulations; it is the result of a too-ambitious plan for the site.

With respect to the requirements for a “Special Exception”, per Article IX Section 175-29-B, we state as follows:

**1. The lot upon which the exception is sought was an official lot of record, as recorded in the Strafford County Registry of Deeds, prior to the date on which this Article was posted and published in the town.**

We concur that the subject lot is a “lot of record”.

**2. The use for which the exception is sought cannot be carried out on a portion or portions of the lot which are outside the Wetland Conservation Overlay District or Shoreland Protection Overlay District without undue hardship.**

We assert that the subject lot is adequately sized for residential development and that an appropriately sized residence can be situated there without the need for a "Special Exception". Any "hardship" that exists with respect to this application is self-imposed.

**3. Due to the provisions of the Wetland Conservation District or Shoreland Protection Overlay District, no reasonable and economically viable use of the lot can be made without the exception**

We assert the Applicant can find a reasonable and viable use of the lot without the "Special Exception" (including a residence) if the proposal is appropriately sized.

**4. The location and design of the building(s) and all structures shall provide for the maximum setback from the reference line consistent with reasonable use of the property considering the size, shape, slope, and natural conditions of the lot including, but not limited to, soils, flood hazard areas, and wetlands.**

We assert the Applicant can develop a design that meets the restrictions imposed by the Zoning Ordinance (175-62, paragraph 1). The Applicant has not demonstrated that such a design is not possible. The Mathes Cove development has 13 homes with smaller footprints than that proposed by Applicant.

**5. The design and construction of the proposed septic system will, to the extent practical, be consistent with the purpose and intent of this Article.**

We have not reviewed the "design and construction" of the septic system except to the extent that it violates the wetland setback requirement. It is our opinion that the Board must require a redesign of the proposal to meet setback limits.

**6. The proposed septic system will not create a threat to individual or public health, safety and welfare, such as the degradation of ground or surface water, or damage to surrounding properties**

**7. All other state, federal and local approvals required for the septic system have been obtained.**

**8. Where site review is required, prior approval shall be obtained from the Planning Board**

Notwithstanding claims by Applicant that there will be no "threat to individual or public health, safety and welfare", we respectfully insist that any proposal meet the standards of #6, 7 and 8 above.

The Nancy P. Sandberg Trust respectfully requests the Durham Zoning Board of Adjustment **deny** the Application for Special Exception.

Sincerely,

  
Malcolm Sandberg

  
Nancy P. Sandberg

6-Jun-17

Mathes Cove Road Developmet (Including two lots on Langley Road)

Comparing Dwelling Footprint Area as Percentage of Lot Size

Lot #	1st Floor Area sq. ft.	Living Area sq.ft	Lot Size	1st Floor % of Lot	Bedrooms	Current Owner
9-2	1500	1500	1.74 Ac	1.97%	3	Middleton
9-3	1138	2184	1.69 Ac	1.54%	4	Warton/McDonald
9-4	1320	1727	1.73 Ac	1.75%	3	Huppuch
9-5	1252	2316	1.8 Ac	1.59%	4	Fleming
9-6	1942	3444	1.99 Ac	2.24%	5	Jumper
9-7	1254	2384	1.9 Ac	1.52%	4	Yates
9-8	2317	3033	2.5 Ac	2.13%	4	Dunn
9-9	1794	2204	2.45 Ac	1.68%	3	Durnall
9-11	2070	3270	2.35 Ac	2.02%	5	Wade
9-12	Proposed +/-2407		1.82 Ac	3.03%	5	Series
9-13	1104	1104	1.81 Ac	1.40%	4	Connell
9-14	1232	2376	1.73 Ac	1.63%	4	Simone
9-15	1188	2332	1.82 Ac	1.50%	4	Grandy
9-16	1291	2321	1.12 Ac	2.65%	4	Lund

Ave. 1.89 Ac