

RECEIVED
Town of Durham
AUG 23 2017
Planning, Assessing
and Zoning

Please send this form with Plot Plan and List of Abutters to the Town of Durham, 8
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: The Riverwoods Group

Address: 7 Riverwoods Drive, Exeter, NH 03833 Phone # 772-4700

Email: jvogel@riverwoodsrc.org

Owner of Property Concerned: Rockingham Properties 1, LTD

(If same as above, write "Same")

Address: PO Box 423, Belmont, MA 02178

(If same as above, write "Same")

Location of Property: Stone Quarry Drive

(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, Lots 8-1 through 8-15

11.3 acres vacant lot, dimensions as shown on plan

**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.

\$217.⁰⁰
pd. 8/23
check #
58553

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 XXI Section 175-111.D ^{and 175.111-A} of the Zoning Ordinance to permit a driveway width of 24' where only 22' is allowed

and to allow a driveway aisle width of 24' where only 22' is allowed.

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.

see attached

4. By granting the variance substantial justice would be done because:
see attached

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

THE RIVERWOODS GROUP

APPLICATION FOR VARIANCE FROM SECTION 175-111.D
DRIVEWAY WIDTH

A variance is requested from Article XXI, Section 175-111.D of the Zoning Ordinance to permit a driveway width in the front yard setback of 24' where no more than 22' is allowed.

The applicant proposes a 24' driveway for the east entrance to the project as depicted on the site plans. The Applicant also proposes that the main entrance drive will consist of three parts, two lanes of 16' each and a median island of 8', for a total of 40'. Pursuant to the zoning interpretation of the Code Enforcement Officer, the variance for the main entrance will not be required if DPW issues a letter approving the median island.

STANDARD OF REVIEW:

1. No decrease in value of surrounding properties would be suffered because:

The Applicant is proposing a very minimal increase to the allowed driveway width from 22' to 24' on the east entrance. This difference is negligible and, accordingly, there will be no decrease in the value of surrounding properties.

Further, there will be no decrease in the value of surrounding properties if a variance is granted for the main entrance since the entrance will be visually appealing.

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

There will be two entrances for the project, the main entrance and the east entrance. The proposed driveway design for the main entrance will incorporate a median island. The resulting entrance will be compatible with a project of this nature and scale and which has demands that are inherently unique and different from projects such as single family homes. Further, the proposed driveway configuration with a median island for the main entrance will guide drivers into the proper lane, thus avoiding conflicts between vehicles entering and exiting the property.

By contrast, the east entrance design reflects that there is insufficient room for a median, and that it is intended to be

more of a secondary access for delivery and other vehicles and it will complement the main entrance. The discrepancy of two feet in excess of the maximum driveway width on the east entrance will do nothing to alter the essential character of the neighborhood and, therefore, granting the variance is not contrary to the public interest.

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 an unnecessary hardship because:

The eleven acre parcel is large and is allowed by right to have an eldercare facility. Given the lot size, it is to be expected that a large campus would be proposed and a correspondingly large number of cars and delivery trucks will be using the driveway. Also, the land where the east entrance is located contains wetland and wetland buffers which prevent the driveway design from including a median. Therefore, the east entrance cannot become conforming by revising the design to include a median.

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 behind restricting the width of a driveway is to enhance the visual appearance of the front yard and there is no fair and substantial relationship between the stated purpose and the application to this property because both driveways will be visually appealing and it will be clear to drivers that the east entrance is intended to be used as a secondary entrance to the project and/or entrance for delivery vehicles.

b. the proposed use is a reasonable one because:

See above, the proposed increase in driveway width is reasonable.

4. By granting the variance substantial justice would be done because:

Granting the variance will allow the Applicant safe access to the site. There is no benefit to the public by denying this variance and, therefore, granting the variance will do substantial justice.

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

Again, because both driveways will be visually appealing and because the proposed driveway configuration will encourage safe traffic patterns, granting the variance will not be contrary to the spirit and intent of the ordinance.

S:\RA-RL\RiverWoods Group\Town of Durham\Driveway Variance\2017 08 21 driveway width variance narrative.docx

THE RIVERWOODS GROUP

APPLICATION FOR VARIANCE FROM SECTION 175-111.A
DRIVE AISLE WIDTH

A variance is requested from Article XXI, Section 175-111.A of the Zoning Ordinance to permit a 24' drive aisle width with 90 degree parking where only 22' in width is allowed.

The Applicant proposes to construct a 24' wide drive aisle for both the main entrance and the east entrance which will surround the campus complex.

STANDARD OF REVIEW:

1. **No decrease in value of surrounding properties would be suffered because:**

The applicant is requesting a minimal change in the allowed width for the drive aisle. The proposed driveway width, in the context of an attractive building and landscaping, will also look attractive. Accordingly, there will be no decrease in the value of surrounding properties.

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

There will be no alteration of the essential character of the neighborhood by allowing a drive aisle which is two feet wider than that which is allowed. Moreover, there are important safety reasons for having the slightly wider aisle width, and such safety measures are in the public interest. The safety rationale includes having greater maneuverability for vehicular traffic, both cars and delivery trucks, greater safety when backing out of the parking spaces generally, and on the radius in particular.

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 an unnecessary hardship because:**

The eleven acre parcel is large and is allowed by right to have an eldercare facility. Given the lot size, it is to be expected that a large campus would be proposed and a correspondingly large number of cars and delivery trucks will be using the drive aisles.

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 public purpose of restricting the aisle width is to decrease impervious surface, to reduce excessive speed on the travel lanes and to improve the overall appearance of the drive aisle. Here, there is a minimal increase of aisle width above that which is allowed by right, and the safety benefits described above outweigh the concerns which normally might have application.

b. the proposed use is a reasonable one because:

See above, the proposed increase in drive aisle width is reasonable.

4. By granting the variance substantial justice would be done because:

Granting the variance will allow the applicant to construct the drive aisles at a width, and in a manner, which will maximize traffic safety on site for residents, visitors, employees, and delivery people. There is no benefit to the public to deny the variance.

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

As stated above, the intent of the ordinance is to discourage dangerous speeds with wide traffic aisles, and to decrease potentially negative impacts from impervious surfaces and to improve general appearance of the aisle. The intent of the ordinance will still be honored because of the safety benefits to be derived from a greater width, and the applicant is taking measures generally with the project to minimize to the extent possible the use of impervious surface.