



TOWN OF DURHAM
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DURHAM, NH 03824
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www.ci.durham.nh.us

RECEIVED
Town of Durham
AUG 21 2017

Planning, Assessing
and Zoning

ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

#332
Pd. 8/21
Check #
9580

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, 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: Jeff & Heather Smith

Address: 195 Piscataqua Rd. Phone # (603) 235-8549 (Jeff cell)
(603) 591-2336 (Heather cell)

Email: SMittyhill@comcast.net (603) 742-8322 (H)

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

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

Location of Property: 195 Piscataqua Rd. - Tax MAP 12, Lot 3-5
(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) Tax MAP 12 - Lot size 12.741 acres
Conservation Easement Area = 10.26 acres
Smith exclusion Area = 2.481 acres

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(A)^{(2)(d)} of the Zoning Ordinance to permit a garage addition within the wetland

setback as shown on survey plot dated Aug. 2017. The property involved is shown on tax map 12, Lot 3-5 and is located at 195 Piscataqua Road, and is in the RC Zoning District.

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:

Table of uses allows for single family dwellings and accessory apartments. Impact to wetland no greater than there is now. Proposed construction of attached garage addition to

2. Granting the variance would not be contrary to the public interest because: existing single family home
it would not be contrary because addition and use not out

of scale or different from other properties in neighborhood. One of very few homes without a garage. No greater detriment to wetland

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. than what currently exists on subject property or similar properties developed for single family uses within wetland buffers.

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:

and

b. the proposed use is a reasonable one because:

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.

Location of garage structure must be in currently used driveway parking area as it is the only location useable. one side of house (front) has septic, far side of house is easement property, and backside is wetland setback area. Garage will be attached to house in location where cars already are parked on hard pack gravel. No change in impact to wetland,

reasonable and not out of scale

exists on subject property or similar properties developed for single family uses within wetland buffers. Hard pack crushed stone existing driveway - so not creating any more impervious area.

No decrease of value to surrounding properties, rather increase in value.

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

No gain to general public by denial of variance, but loss to owner was significant. Use allowed in district and this is only location on parcel that is reasonable given the

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

The addition would not cause any additional ^{existing} ^{conditions} _{of parcel.}
degradation to the wetland than what currently exists. Gutters on structure would keep water away from Rt. 4 side of Road. Property is landscaped also to aid roof runoff, which quickly is infiltrated.

Existing house and driveway are located within the wetland setback. The addition will fall within the setback. No additional area would be disturbed for this proposal than what is currently existing now.