

Mary Lohnes Ehrenworth
Richard Hallett
18 Colony Cove Road
Durham, NH 03824

April 8th, 2018

Zoning Board of Adjustment
The Town of Durham
8 Newmarket Rd
Durham, NH 03824
(603) 868-8064
Re: Application for Variances

Dear Zoning Board of Adjustment

We have applied for lot line adjustments to Lots 16-24, 25-0, and 26-0 (see Figure 1) on Colony Cove Road, in Durham. We are owners of all three lots and would like to adjust the lot lines to restore water frontage to Lot 26-0. Our letter of intent for this process is attached, below. Here, please find our submission for Variances:

Appeal for Applicant

State of NH

Strafford, SS

To: Zoning Board of Adjustment, Town of Durham, 03824

Name of applicant: Mary Lohnes Ehrenworth and Richard Hallett

Address: 18 Colony Cove Road, Durham, NH 03824. Phone: (603) 828-5027

Email: rahallett@gmail.com and maryehrenworth@post.harvard.edu

Address for Variances: 18 Colony Cove Road and 22 Colony Cove Road, Durham, NH, 03824

Location of Property: Lots 16-24, 25-0, and 26-0, Colony Cove Road, Durham, NH, 03824

Description of Property: (Tax Map number, length of frontage, side and rear lines and other pertinent descriptive information.

We currently own three lots, Lots 16-24, 25-0, and 26-0 on Colony Cove Road, on Little Bay, in Durham. Lot 16-24 is a meadow, that is both visually pleasing for our neighbors, and is used for dog-walking and games by neighbors. Lot 25-0 has a house on it where my mother, Kay Lohnes, lived for many years, and I grew up. It has 195 of waterfront footage currently. Lot 26-0 is a lot which abuts the meadow lot 16-24, and Lot 25-0. My mother, Kay Lohnes, gave us this lot, and we built a new house on this lot, where we live.

We would like to sell the house on Lot 25-0. Before we do so, we are asking to restore waterfront footage to Lot 26-0, by taking 75 feet of frontage from Lot 25-0 (75 feet is the minimum footage allowed by the state for a small dock). In our Letter of Intent for Lot Line Adjustment, we described how this waterfront

footage was originally attached to what is now lot 26-0. In shared anticipation that we would move into the house on Lot 25-0 when she died, my mother, Kay Lohnes, had a Lot Line adjustment to give all of the waterfront footage to Lot 25-0. Unfortunately Kay passed away much, much sooner than expected, and we found we can't afford to restore and move into the house on lot 25-0, unless we sell the meadow lot, which we are loath to do as it gives pleasure to us and our neighbors. Instead, we are requesting a lot line adjustment to restore 75 feet of waterfront to Lot 26-0.

We are asking for these variances:

1. A reduction in frontage for Lot 25-0, increasing the nonconformity. Its waterfront footage will decrease from 195' to 120'. We can, though, increase its overall size by adding a corner of land from Lot 16-24. The overall size of Lot 25-0 will increase from 41,638 Sq. Ft to 44, 673 Sq. Ft.
2. Creating new shoreline footage for Lot 26-0, for waterfront footage of 75 feet that does not meet the 75 foot minimum.
3. Moving a lot line such that the side setback from the existing house on Lot 25-0 would be less than 50 feet (the house would be 40 feet from the new lot line, and the deck would be 28.5 feet).

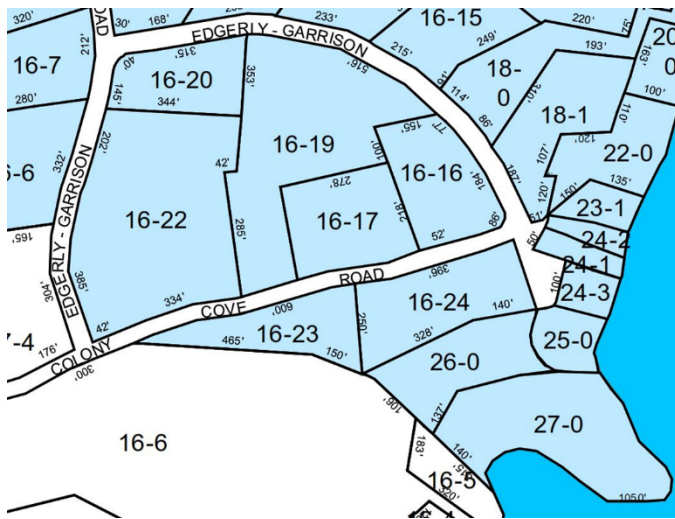


Figure 2. Excerpt from Durham, NH tax map 12. Lots involved in this request are labeled 16-24, 25-0, and 26-0.

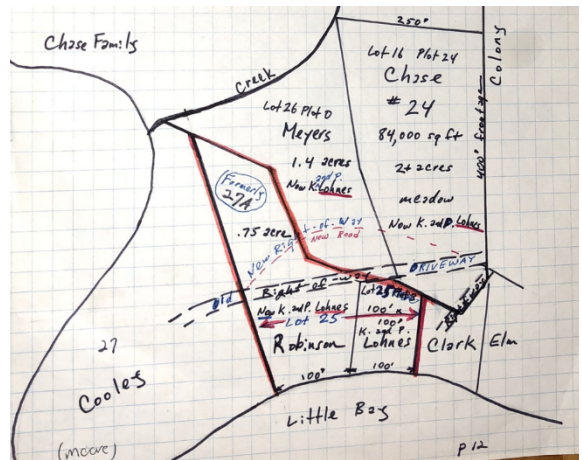


Figure 1. Kay Lohnes's hand-drawn plan of Lots showing original disposition of lots with shoreland attached to both.

Section 4 Application for a Variance

A variance is requested from Article _____ Section _____ of the Zoning Ordinance to permit:

1. A reduction in frontage for Lot 25-0, increasing the nonconformity. Its waterfront footage will decrease from 195' to 120'. We can, though, increase its overall size by adding a corner of land from Lot 16-24. The overall size of Lot 25-0 will increase from 41,638 Sq. Ft to 44, 673 Sq. Ft.
2. Creating new shoreline footage for Lot 26-0, for waterfront footage of 75 feet that does not meet the 75 foot minimum.



3. Moving a lot line such that the side setback from the existing house on Lot 25-0 would be less than 50 feet (the house would be 40 feet from the new lot line, and the deck would be 28.5 feet).

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.

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

The frontage of all the properties on Little Bay on this cove is a series of small properties and docks, all of which were grandfathered in before the 200 foot minimum was ordered. The restoration of the frontage to Lot 26-0, which will result in non-conforming frontage, will fit the appearance of the other lots along the water. Also, by restoring this frontage, we will not have to sell the meadow lot – and that means the pleasant view many neighbors have of the meadow will not be impaired. The variances for the side setback will not affect any surrounding properties.

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

The side-setback and the nonconforming footage are on properties which we own, that do not conflict with any public property or view. The view of the waterfront footage will only be available by land from Lot 25-0 and Lot 26-0, both of which we own.

3. **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:

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.

The variance we are asking for restores lot lines and waterfront footage that were originally attached to this lot. When we moved onto Little Bay, all of the properties, including these, were non-conforming lots with small docks. They remain this way, so that some neighbors have very limited frontage with docks, including very narrow strips that go down to the water to docks. We are asking to restore our lot to that same condition so that we can continue to live on Little Bay, with water access, as well.

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

It will allow the continued use of the meadow for all neighbors as a source of nature rather than being sold for a housing lot. It will restore the waterfront footage that original owner and long-time Durham resident, Kay Lohnes, would have wanted for her daughter. It will be in keeping with the nature of the homes on Colony Cove Road and Little Bay.

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

We will preserve the natural woodland of the frontage as this will not be a building lot. The original ordinance grandfathered in non-conforming lots, and this property was, for many, many years, grandfathered in this way. The family owners, who own both lots, are eager to continue to live in Durham and care for the waterfront. The state has approved a small, ecologically sound dock as long as there is 75 feet of frontage.

Mary Ehrenworth April 16, 2018

Rich Hallet April 16, 2018



Appendix

Abutters List

1. William W. Cooley, 20 Colony Cove Rd, Durham, NH 03824. Tax Map 12, Lot 27-0.
2. Kristin Snow and Frederick N. Jones, 265 Durham Point Road, Durham, NH 03824. Tax Map 20, Lot 16-4.
3. Gregory F. and Elise McCormick, 15 Colony Cove Rd, Durham, NH 03824. Tax Map 12, Lot 16-17.
4. Vicky L. Randall Living Rev. Trust, 19 Colony Cove Rd, Durham, NH, 03824. Tax Map 12, Lot 16-16.
5. Great American Properties, LLC, 28 Colony Cove Rd, Durham, NH, 03824. Tax Map 12, Lot 24-2.
6. Jennifer K. Carlson, 26 Colony Cove Rd, Durham, NH, 03824. Tax Map 12, Lot 24-1.
7. Arthur Gordon Pierce Rev. Trust, 24 Colony Cove Rd, Durham, NH, 03824. Tax Map 12, Lot 24-3.