



TOWN OF DURHAM
ZONING BOARD OF ADJUSTMENT
8 NEWMARKET RD
DURHAM, NH 03824
PHONE: 603/868-8064
www.ci.durham.nh.us

VARIANCE

Prior to seeking a variance, the property owner must have been denied a building permit by the Building Inspector or denied an approval by the Planning Board.

Name of Applicant Charles & Trisha Waters, Trustees of the Charles Waters II and Trisha Ann Waters 2000 Revocable Trust

Address: 83 Mill Road, Durham, NH 03824

Phone # 415-944-0045

Email: fourh2os@outlook.com

Owner of Property Concerned same

(If same as above, write "Same")

Address: same

(If same as above, write "Same")

Location of Property: 83 Mill Road

(Street & Number)

Tax Map & Lot number Map 7, Lot 2

A Variance is requested from Article XIII, Section 175-65.F of the Zoning Ordinance to permit:

A septic tank and aeration tank within 125 feet of a wetland.

All applications must include a statement explaining how the applicant meets each of the five (5) statutory requirements for granting a variance, (A) through (E), which are found on page 2. The Zoning Board of Adjustment may consider the variance application incomplete if these five statements have not been addressed. In addition all applications must be accompanied by adequate plans and exhibits.

CHARLES & TRISHA WATERS
83 MILL ROAD

VARIANCE APPLICATION FOR SEPTIC DISPOSAL SYSTEM
SITUATED WITHIN 125' OF WETLAND
ARTICLE XIII, SECTION 175-65.F

INTRODUCTION

Charles and Trisha Waters own property at 83 Mill Road. The lot is quite large and contains an existing four bay garage for which they seek permission to convert into a detached accessory apartment. To provide sewage disposal service to the accessory apartment, they propose to use the existing leach field which currently serves the primary residence and to then install an aeration tank and a new septic tank for the accessory apartment.

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

The applicant is proposing to install a new septic tank for the proposed accessory apartment. The new septic tank will lie within the 125' wetland setback. The presence of a septic tank buried underground at the proposed location will have no impact on the value of surrounding properties.

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

The grant of the requested variance will not unduly and to a marked degree violate the zoning objective's basic zoning objective. Nor will the grant of the variance alter the essential character of the locality, or threaten the public health, safety or welfare.

The basic objective of the zoning ordinance is to prevent the impairment of the wetland buffering. The proposed septic tank which will lie within this buffer will have minimal impact involving simply the installation of the tank with no further disturbance. Additionally, the septic tank which will be buried underground, will not alter the essential character of the area as it will be underground and will not have a negative impact on public health, safety or welfare.

3. 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:

As stated in the companion variance request for an accessory apartment, the subject property is very large in comparison to other lots in the area, and is configured in such a way that it can support an accessory apartment without negatively impacting other properties in the area. If the companion variance is granted, then providing sewage disposal in the manner which is least invasive to the wetland buffer suggests that the existing disposal system for the primary residence should be augmented with an aeration tank, a new septic tank for the attached apartment and appropriate sewer lines connecting both structures into one leach field.

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 the ordinance is to prevent, where at all possible, disturbance of the wetland buffer. The proposal for septic disposal for the accessory apartment involves the use of an aeration tank for the existing leach field which will serve both the primary residence and the accessory apartment and a septic tank for the accessory apartment. Once installed, the new septic tank will create no disturbing impact to the wetland. Therefore, there is no substantial relationship between the public purpose of the ordinance and the application to this property. Further, the use of the aeration tank, which is not in any wetland buffer, will extend the life of the existing leach field, which is partially in the wetland buffer. For this reason, the public purpose of the wetland buffer ordinance will not be served by prohibiting a new septic tank which will be a component of a system, which on an overall basis, will reduce impact to the wetland buffer.

b. The proposed use is a reasonable one because:

The new septic tank which will serve the accessory apartment is part of a sewage disposal system serving both the primary

residence and the accessory apartment. The system incorporates the existing leach field which is partially in a wetland buffer, a proposed aeration tank which is not in a wetland buffer and a new septic tank for the accessory apartment. Once the new septic tank is installed, then there will be no further disturbance of the wetland buffer and the aeration tank will actually extend the life of the leach field and thus reduce the impact to the wetland buffer.

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

Granting the variance will provide substantial justice in that it will allow the applicant to use a septic disposal system to service an accessory apartment to be approved in a companion variance application. No corollary damage will be sustained by any individual or member of the public if the variance is granted.

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

Under New Hampshire law, the interpretation of this criteria is identical to that of the public interest criteria discussed above.