

April 11, 2020

CHARLIE STERNDAL and DURHAM ZONING BOARD  
Durham NH 03824

Subject: Objection to the request for variance at 30 Durham Point Road

Dear Members of the Durham Zoning Board,

We, Cheryl Whistler and Kevin Culligan, are writing this response to the request for a variance for an accessory dwelling at 30 Durham point road, Durham NH. We reside at and own our house at 1 Pinecrest Lane, which we purchased in 2004. We endure inconveniences of this neighborhood (no town water/sewer/natural gas service, and spotty electrical service) in exchange for larger lots affording some separation from neighbors and the peace and tranquility that comes with space in this single-family neighborhood. And we pay a premium in our property taxes due to the desirability of the neighborhood. Our property abuts at the corner of the property in question and much of our primary living space of our home (and all our outdoor entertaining space) directly faces and is in clear eyeline of the dwelling and its proposed addition (below). Notably, our decision to buy our home was for the view of our lovely shared forest from the back screened-in porch where we previously saw no other houses, though this has changed since the owners of the property in question cleared a large number of trees that used to provide this privacy. We believe it is important to establish this context, as the infringement upon our ability to enjoy our home and its value is in this balance with the expressed need for accessible housing.

First and foremost, we would like to go on the record that we support the expressed intent of the owner to create accessible/assisted living space that provides some semblance of independence for a family member with a disability - this is a laudable goal. We also understand the desire that these living quarters not isolate the family member from the rest of the family that undoubtedly provides support and care. We also understand the law assures reasonable accommodations for those with disabilities be made by variance when necessary and justified, and that these be reversible when the individual for whom the accommodation/variance was made no longer *needs* these. With the expressed intent of this variance in mind, we carefully and with an open mind reviewed the proposed building plan. **We find the proposed addition of two new apartments to this single family home is not consistent with the justified need for accessibility family housing when a permitted apartment conversion is preexisting on the property, and the outlined intent to demolish the unit at a later date is unrealistic. In short, we are unconvinced by the justification and urge the zoning board to deny this application for variance.**

We provide the following as inconsistent with the primary expressed intent to provide accessible and assisted extended family living:

- The house already contains a permitted conversion of living space to a large accessory apartment with a legal bedroom, (and an additional room with a closet and with egress), with a kitchen, two different living spaces, a bathroom, laundry access, that could presumably be improved for accessibility without a variance as it would not change the number of accessory housing units (notably, there is already a permitted accessory housing unit on the property). If needed, an addition that increases the footprint of the house without increasing the number of independent dwellings would seem more justifiable than what is proposed. Even if such an addition for the justified purpose also included an increase in floorspace for the in-home daycare business on the lower level of the house, it could only be justified if this addition could not easily be converted into

separate rental units in the future (e.g. did not have a kitchen, or bedrooms- as these are not necessary for a day care). The entire main floor of the current dwelling could be improved for accessibility in the future if needed, without any additions of separate housing units with their own entrances. Though two dwelling units are justified, any additions or modification to the property to enhance accessibility should ensure only two dwelling units total on the property.

- The plans if approved would add TWO additional apartments, with separate entrances, kitchens, laundry, and access to outdoor space. This would turn a single-family house into a quadraplex of four apartments, which we have no doubt in the future would be used as rental properties. As we see from this application, granting a permitted addition of dwellings can lead to the justification of more dwellings and very likely would set the stage for future attempts to justify changing these to approved rental properties simply by granting this variance, and then not enforcing the terms of that variance. Future owners of this property are unlikely to understand the conditions of this variance requiring demolition and after the sales transaction, and would undoubtedly claim legal footing that the variance does not apply to them since the unit was not demolished prior to sale.
- Though the two apartments in the proposed addition are drafted as one-bedroom apartments, each has an office that with very modest changes to the closet configuration (that would likely be done without permit) would increase each to two bedrooms. Notably one of these offices already has a drafted adjoining private bathroom indicating it is likely intended to be used as a bedroom and not an office. Furthermore, it is unlikely that the current accessory dwelling has not previously been utilized as a two-bedroom rental unit since both rooms have closets. The proposed addition of two units would double the size of the permitted 5-bedroom home to 11 functioning bedrooms (even if 3 are unpermitted), four kitchens and 6 bathrooms (on a septic rated for 5 bedrooms). We appreciate the concept of living among an extended family, but this proposal is well beyond the scope the owners justified in their application when asking for a permitted variance.

In addition to the inconsistencies with the justification of the variance above, we also note the following as inconveniences to current residents of our neighborhood, and inconsistencies with the character of this single family housing neighborhood that could cause real harm in reducing property values.

- Realistically, permitting the conversion of this single-family home into a four unit apartment complex would also require creation of a parking lot on the property for residents of up to 11 bedrooms. The addition of a parking lot certainly is not in keeping with a single-family neighborhood and contradicts the assertion that this would appear as a single-family house.
- Since the owners have maintained a day care business out of their residence we have noted the exuberance of children at play is quite regularly audible from our home. Though at times the screaming is excessive, we do not find this inherently problematic but this preexisting circumstance make us quite wary of escalating noise from this property that infringes on our use and enjoyment of our home, and that should be addressed with any approval of modification (such as by requiring replanting of noise buffering shrubbery and with fencing to block car headlights from shining directly into the neighboring houses).
- The sounds of children at play are far preferable to us to the sounds of rowdy young adults once these housing units became rental properties, which we believe would inevitably follow, if not with this owner then with the next owner. We already have many properties in our neighborhood that rent to young adults and find these add considerably to activities that are not compatible with families with children including loud parties, excessive street traffic that violates traffic laws (speeding, and racing in the neighborhood), and the litter trail of beer bottles and cans from these dwellings.

In conclusion, the proposed addition that would nearly double the size of this house would take months of construction, a new septic system, and removal of even more trees that provide sound and light buffering. This would seriously impair our enjoyment of our home now and in the future. This may be acceptable if it were, as proposed, primarily enabling the care of a family member with a disability and care was taken to ensure the terms of the variance (demolition) are enforced; but, that imposition is not convincingly justified, and certainly would not be under the conditions of a variance that leads to the conversion of a home into an 4 apartment complex with a large parking lot that would detract from the properties, and decrease area property values, especially those that adjoin the property. If a variance to increase the number of dwelling units at this property were permitted, we would appeal, and furthermore, demand a substantial reduction on our assessed property taxes that more than equals the increase assessment to the owners of 30 Durham Point Road as a reasonable accommodation.

We thank the Board Members for your careful consideration to existing homeowners that abut this property and our rights as homeowners in this neighborhood.

Sincerely,

Cheryl Whistler & Kevin Culligan (owners)  
1 Pinecrest Lane  
Durham NH  
603-397-5444



This is a view of the property at 30 Durham Point Rd. on the side of the house where the proposed addition would expand this family house to add two additional apartment units, as seen from our back deck and kitchen window at 1 Pinecrest Ln. A pile of giant tree trunks is visible, and these are all that remain of what was once a forested border that provided noise buffering and privacy from the daycare and Durham Point Rd traffic.