



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

RECEIVED
Town of Durham
AUG 10 2022
Planning, Zoning
and Assessing

VARIANCE

JD 406
pd. 8/10
check #
6308

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 Linda Conforti-Brown Revocable Trust and Larry G. Brown Revocable Trust

Address: 112 Piscataqua Rd., Durham, NH 03924

Phone # (518) 421-7271 Email: Larry.G.Brown@gmail.com

Owner of Property Concerned Linda Conforti-Brown and Larry G. Brown as above, write "Same")

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

Location of Property: 112 Piscataqua Rd
(Street & Number)

Tax Map & Lot number 215-23-0-0-0

A Variance is requested from Article(s) 175 Section(s) 109 of the Zoning Ordinance to permit:

Placement of a shed located forward of the front façade of the house

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.

Owner Authorization and Signature:

1. I/we do hereby authorize Self to file this application with the Zoning Board of Adjustment, to appear before the Board and to act on my/our behalf.
2. I/we do hereby authorize members of the Zoning Board of Adjustment and/or staff to enter upon the property on the afternoon prior to the Zoning Board meeting for purposes of reviewing this application.
3. To the best of my/our knowledge the information contained in this application is complete and accurate.

Owner's Signature(s): Larry G. Brown Date: 8/10/22
Linda Conforti-Brown Date: 8/10/22

RSA 674:33 Powers of the Zoning Board of Adjustment:

I(a) The zoning board of adjustment shall have the power to:

- (1) Hear and decide appeals if it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and
- (2) Authorize, upon appeal in specific cases, a **variance** from the terms of the zoning ordinance if:
 - (A) **The variance will not be contrary to the public interest;**
 - (B) **The spirit of the ordinance is observed;**
 - (C) **Substantial justice is done;**
 - (D) **The values of surrounding properties are not diminished; and**
 - (E) **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

(see attached)

(b)(1) For purposes of this subparagraph I(a)(2)(E), "**unnecessary hardship**" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (B) The proposed use is a reasonable one.

(2) If the criteria in subparagraph (1) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish 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.

(3) The definition of "unnecessary hardship" set forth in subparagraphs (1) and (2) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

EXPIRATION PERIOD FOR VARIANCES

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.

This is a request for a variance to place a prefabricated storage shed -- 8' x 10' with a height of 6' at the sides, and 7' at the apex of the roof -- on top of the side of our existing driveway. This will be freestanding and requires no additional footings other than to level it. It will be placed behind an existing 8' tall privacy fence that shields the shed from view from the front and side of the lot. While the appearance of the shed is not particularly relevant as it will essentially be invisible from public view, it will sided, will have a door and windows, and will match as nearly as possible the color of the siding of the existing home. In short, while it will be an attractive outbuilding, it will only be seen by persons who enter the yard and drive past the privacy fence.

- A.) The variance will not be contrary to the public interest: As the installation of the shed will be behind an existing, solid privacy fence, it will not be seen from the road or the side. It does not add to the impermeable surface of the lot as its location is over an already existing non-permeable area.
- B.) The spirit of the ordinance is observed: The ordinance is intended to prevent the placement of buildings forward of the existing home in order to preserve the nature of Durham itself and to promote free and clear access for emergency response personnel. As noted above, the shielding effect of the existing fence prevents seeing the shed from the front of the house when viewed from the road or to the side. Since the interest is in preserving the viewscape, and since the shed will not be seen, it is in keeping with the spirit of the ordinance. Similarly, the proposed placement of the shed at the far end of the existing driveway allows clear access for emergency vehicles and snow removal. Furthermore, the placement of the shed on an already impermeable surface adds no additional ground to be covered, avoiding additional runoff. All of these are in keeping with the intent of the ordinance and the general interest of town priorities.
- C.) Substantial justice is done: the siting of the shed in any location other than what is being proposed is a hardship and makes it virtually impossible to have a storage shed. We have taken every precaution to see that it is not an eyesore, does not detract from the bucolic nature of the town, preserves access to the home, and preserves the value of abutters' properties. As such, the unique character of this property requires this proposed siting of the shed, and the existence of a fence tall enough to hide the shed from public view satisfies the general purpose of the ordinance. Therefore, the proposed use is a reasonable one and the variance should be granted.
- D.) The values of surrounding properties are not diminished: all abutters have been notified and, to date, have not objected. Since the shed is invisible to them, it does not have any meaningful impact on them, on their view, and on their property values. Should our property be sold, the additional on-site storage may actually increase the value of the property, positively affecting neighboring home values.
- E.) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: The property is one with a steeply sloping backyard that has only one point of access along the east side of the property down to the river. This side of the property is the only portion flat enough to place a shed behind the house, but that would block the sole access to the lower part of the property, and would situate the shed on top of the septic system. It is not usable for this purpose. The only other location for siting the storage shed is on the existing driveway.



215-023

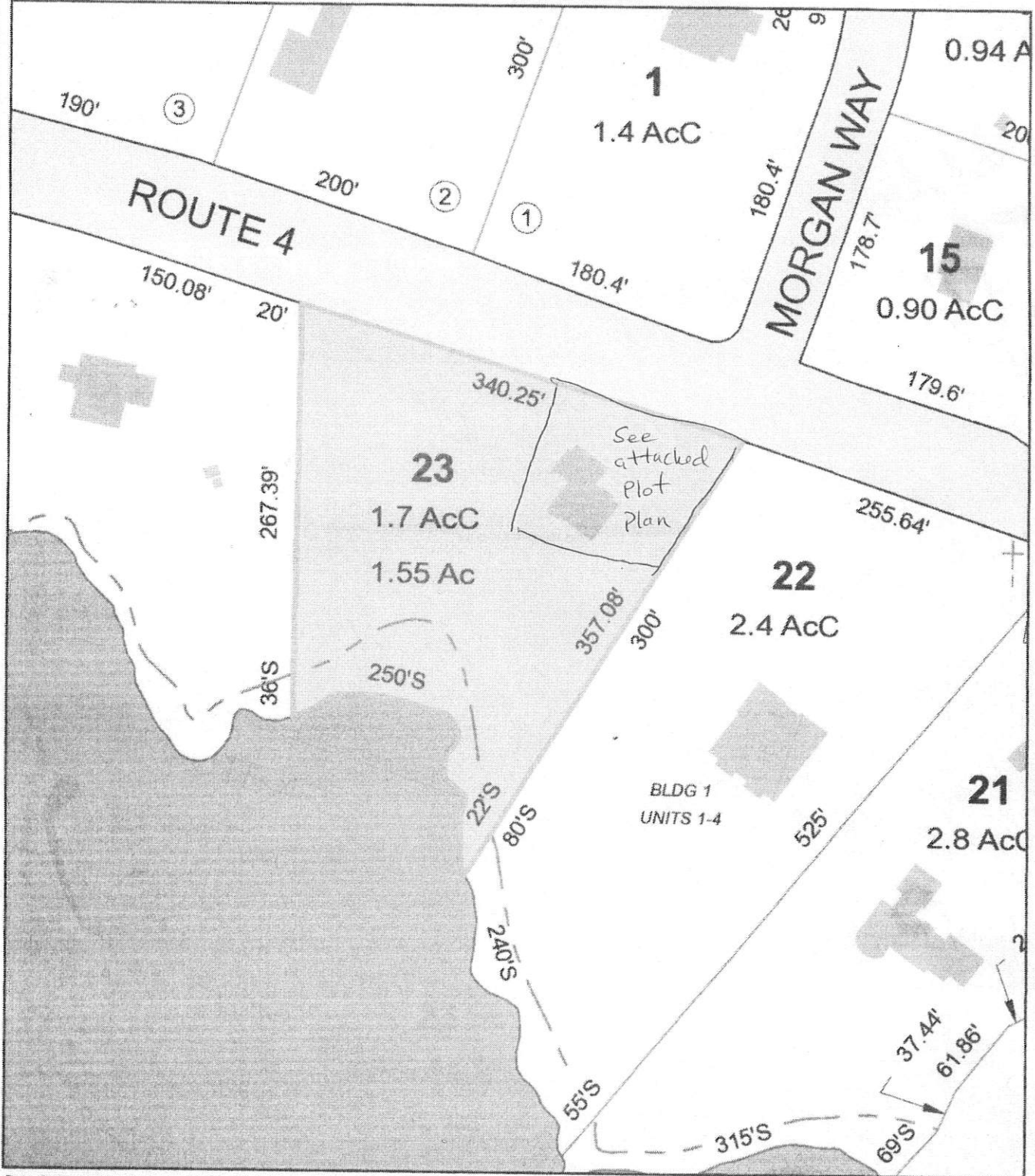
Durham, NH



October 28, 2021

1 inch = 97 Feet

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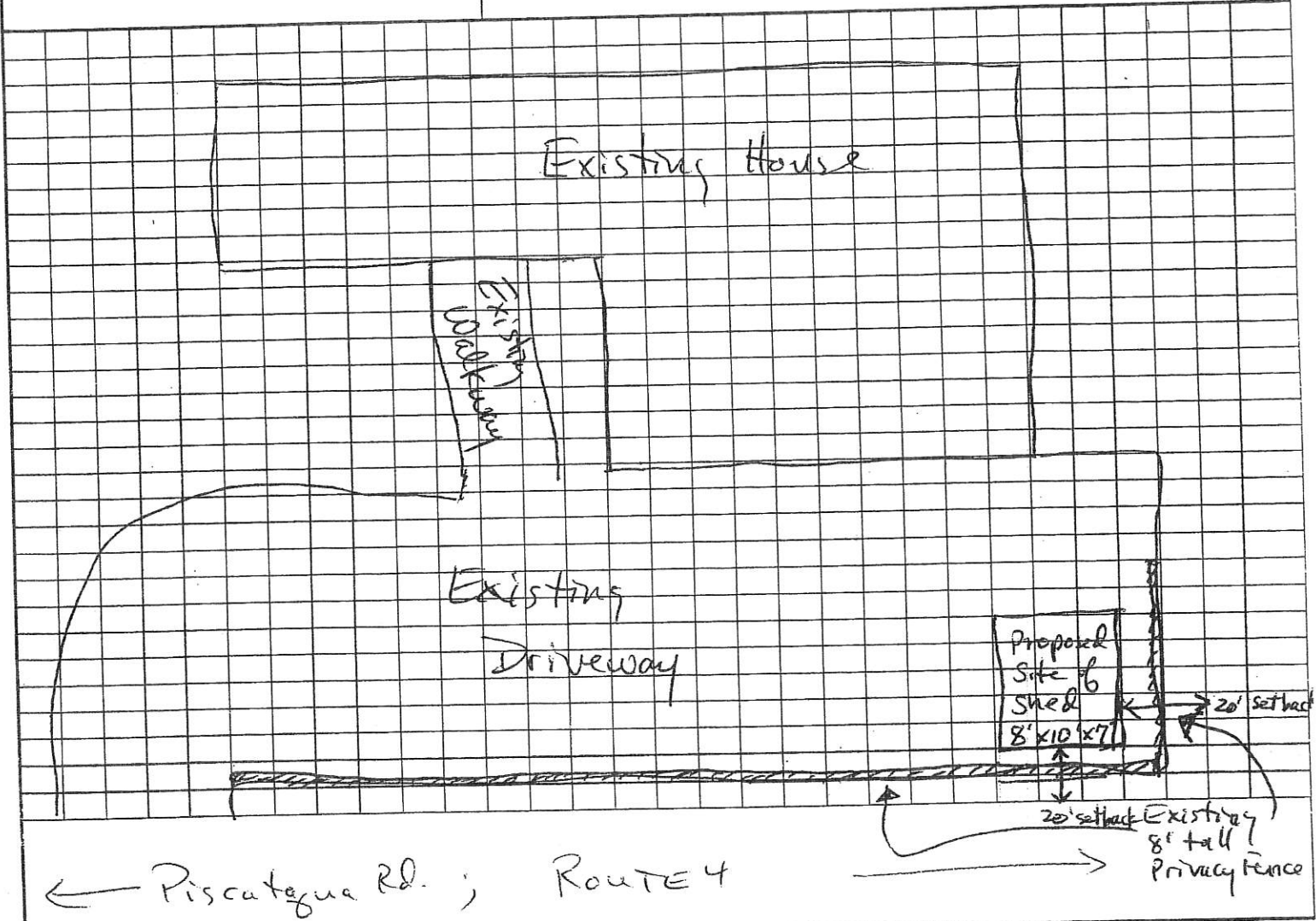
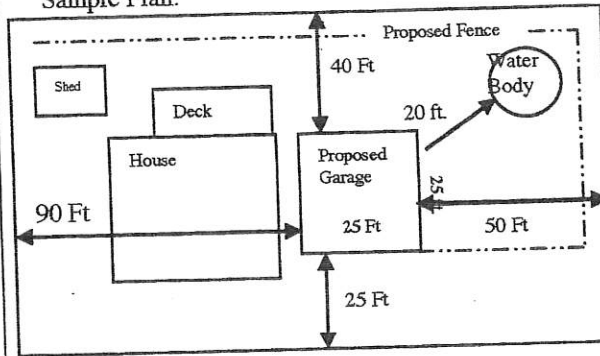
DRAW PLOT PLAN FOR ADDITIONS AND OUTBUILDINGS

Instructions:

- 1) Show the Property lines and road(s).
- 2) Show the proposed Structure and all existing structures.
- 3) Show the Measurements from the proposed structure to all lot lines, wetlands and/or shorelands. Measure straight through existing structures if needed.
- 4) Include the dimensions of the proposed structure.

See Zoning Dimensional Table for setbacks.

Sample Plan:



Proposed shed is 8' wide x 10' Long x 7' tall. It will be hidden behind the privacy fence and will not be visible from the front of the house. It will be placed on a tilled area, an already non-permeable area. There are no other flat areas on the property that won't prevent truck/tractor access to the backyard, should repairs, tree work, etc. ever be needed.