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Town of Durham

FEB 28 2013

To: Mr. Larry Prelli , Chairman
Zoning Board of Adjustment
Town of Durham, NH

From: Chase Family Security Trust
271 Durham Point Road
Durham, NH

Planning, Assessing,
Zoning & Code Enforcement

February 28, 2013

Dear Mr. Prelli:

I enclose as application for Variance to Modify an existing deck at 271 Durham Point Road.

The original home with existing deck was constructed in 1991. The home was expanded in 2004/5 based on a variance from your Board.

The original deck in question was damaged in 2012 by several falling trees. It seemed prudent to not just repair it, but replace it with better materials and modify the plan to increase safety. The reasons are outlined in our application.

I have included documents as follows:

- 1) Zoning Board of Adjustment request with attached information
- 2) original denial of permit by the Town Zoning Officer
- 3) plot plan showing existing home with present deck and proposed expansion with appropriate setbacks
- 4) deck layout plans showing existing deck and proposed expansion area
- 5) list of abutters, provided by the Town with an addendum showing current owners and addresses
- 6) payment as requested

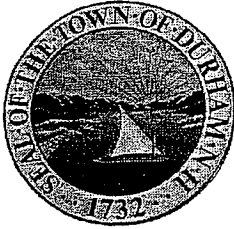
If additional information is requested please feel free to contact me at the below numbers.

Thank you,



Edward E. Chase, Trustee
Chase Family Security Trust

781-740-2400
781-710-9104 cell
chasco188@comcast.net



TOWN OF DURHAM
15 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064 603/868-8065
FAX 603/868-8033
www.ci.durham.nh.us

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ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

B 214 pd.
2/28
Check
164

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, 15 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: Chase Family Security Tr. Edward E. Chase, Jr.

Address: 16 Hills Street Cohasset, MA Phone # 781-710-9104 (c)
781-740-2400 (o)

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

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

Location of Property: 271 Durham Pl. Rd. Durham, N.H. 03824
(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 20, Lot 16-1, Frontage 115'6"
Left side 314'8", Right side 263.70 and 112. Rear 150.

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

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: The New Hampshire Legislature has declared that each of the following conditions must be found in order for a variance to be legally granted. 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.

1. No decrease in value of surrounding properties would be suffered;
2. Granting the variance would not be contrary to the public interest;
3. Denial of the variance would result in unnecessary hardship to the owner seeking it;
4. By granting the variance substantial justice would be done;
5. The use must not be contrary to the spirit and intent of the ordinance.

A Variance is requested from Article XIV Section 175-74A of the Zoning Ordinance to permit _____

See attached Addendum "A"

Facts supporting this request:

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

see attached Addendum "A"

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

see attached Addendum "A"

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:

see attached Addendum "A"

and

- b. the proposed use is a reasonable one because:

see attached Addendum "A"

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.

See attached Addendum "A"

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

See attached Addendum "A"

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

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**ADDENDUM 'A' TO APPLICATION FOR VARIANCE 271 DURHAM POINT ROAD,
DURHAM, NH**

SECTION 4: APPLICATION FOR A VARIANCE

STANDARD OF REVIEW:

A Variance is requested from Article XIV, Section 175-74A of the Zoning Ordinance to permit the expansion of an existing deck which is currently 10'6" X 18' by a dimension of 5' 6" (see plan) and the relocation of the access stairs as shown on the plan.

FACTS SUPPORTING THIS REQUEST:

- 1) No decrease in the the value of surrounding properties. In fact, the existing deck in its current damaged condition appears as a detriment to the existing house and to the sight lines of adjacent properties. The condition of the deck resulted from falling trees during a storm. Damage to the main house has been repaired, but the deck remains temporarily maintained. A new, slightly expanded deck, constructed with environmentally correct materials will add to the value of the property and maintain it for the future. Additionally, the proposed new deck would create visual value to the abutting property. Namely, 20-16-2 Kleinman.
- 2) Granting the variance would not affect the public interest since decks are allowed in the shoreland overlay /residential coastal shoreland zoning district
- 3A) a. Either existing or expanded decks do not affect the environmental quality of the land within the zone
- b. An expanded deck would allow a safer location of the gas grill from the perimeter of the house and guests seated on the deck and a much safer egress from the deck to the ground level.

3(B) Special Conditions

The existing deck was severely damaged in 2012 by several falling trees located on the common lot line between the subject property and 269 Durham Point Road.

That the lot and rear yard of 271 is distinguished from the house lot #269 in that the rear grade of the subject land is approximately five feet lower than the exterior sill height of the first floor of the main house.

That the expansion of the existing deck will permit the owner's gas grill to be located at a further point from the existing main home which location provides an additional safety factor to persons using the deck.

That this property is unique in that the rear lot is open and falls in a gentle slope to the mean high water mark of Little Bay, and further, that an expansion of 5'6" will not impact the set back area as defined.

That the configuration of the existing deck of 10'6' X 18" is unique in that it is inadequate for owners and guests to reasonably and safely use the deck.

- 4) There would be no impact within the Shoreland Setback Area because the entire deck would be pervious to rain fall which would continue to recharge the ground and water table.

That the rebuilding of the damaged and expanded deck would result in the safer, more environmentally compatible structure

Crushed stone will be installed under the deck to facilitate water penetration

That the overgrown shrubs currently adjacent to the deck will be removed and replaced according to the attached plan

- 5) That the Ordinance contemplates non conforming uses and provides a path for the expansion thereof. It is our position that the expansion affords better safety and reasonable usage by owners and guests without adversely impacting the environment

Chase Family Security Trust

A handwritten signature in black ink, appearing to read "Edward E. Chase", followed by a stylized "PC" or similar initials.

Edward E. Chase, Trustee