

Please send this form with Plot Plan and List of Abutters to the Town of Durham, 8 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: ARNE LLC c/o Ray Donahue, Member

Address: 37 Leonard Avenue, Hookset, NH 03106 Phone # 603-264-1034

Email: arne.llc@yahoo.com

Owner of Property Concerned: Same as Applicant

(If same as above, write "Same")

Address: Same as Applicant

(If same as above, write "Same")

Location of Property: Tax Map 17, Lot 13-2 - 221 Packers Falls Road

(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 17, Lot 13-2; See Site Plan and Narrative filed

herewith which are incorporated by reference.

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

****Any Special Exceptions 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.****

Description of proposed use showing justification for a Special Exception as specified in the Zoning Ordinance Article IX Section 175.29.B

Please see Site Plan and Narrative filed herewith which are incorporated by reference.

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: 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.

****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.****

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

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 either on this form or on a separate sheet of paper.

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

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

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.

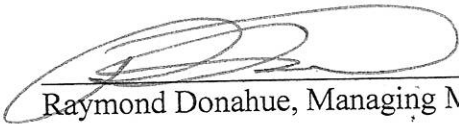
4. By granting the variance substantial justice would be done because:

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

LETTER OF AUTHORIZATION

ARNE LLC, by and through its Managing Member, Raymond Donahue, of 37 Leonard Avenue, Hookset, New Hampshire 03106, hereby grants its authorization and permission to DURBIN LAW OFFICES PLLC to represent it on all permit applications before the Town of Durham, including the Zoning Board of Adjustment, and to file all related municipal applications necessary to seek approval of a single-family residential structure on the property identified on Tax Map 17, as Lot 13-2.

ARNE LLC


Raymond Donahue, Managing Member

**TOWN OF DURHAM
ZONING APPLICATION
NARRATIVE**

Arne LLC (Owner/Applicant)
Ray Donahue, Member
221 Packers Falls Road
Durham, NH 03824
Tax Map 17, Lot 13-2

INTRODUCTION

ARNE LLC is the owner of property located at 221 Packers Falls Road, shown on Tax Map 17 as Lot 13-2. (the "Property"). The Property is located in the Rural - Residential Zoning District (the "R Zoning District"). In addition, the Property is located within the Wetlands Conservation Overlay District (the "WCOD District").

The Property is unique. The origins of the original lot, which was later increased in size via a boundary line adjustment, goes back to a deed recorded in 1910.¹ The Property is a "vacant" lot that does not contain any structures outside of a shed. The Property does not comply with the minimum lot area requirement set forth in the Durham Zoning Ordinance (the "Ordinance") for the R Zoning District. It contains just over 1/3rd (55,444 sf.) of the total lot area required in the R Zoning District (150,000 sf.). Aside from being an undersized lot by current zoning standards, a significant portion of the lot is also encumbered by wetlands, as depicted on the Site Plan submitted herewith (the "Site Plan"). Much of the Property falls within the 100' wetland buffer. Due to the zoning restrictions affecting the Property, no viable use of the Property can be made without relief being granted from the Ordinance by the Board of Adjustment (the "Board"). In fact, there is not enough land outside of the 100' buffer to develop a residential structure on the Property without the need for zoning relief.

The Applicant is seeking to construct a modest 3-bedroom single-family home upon the Property as shown on the Site Plan. Because the home would be located within the 100' setback from wetlands, the Town has determined that it is not permitted as a conditional use pursuant to Section 175-61 of the Ordinance. Accordingly, a Special Exception pursuant to Article Section 175-29 (B) is required to construct the home within the 100' setback.

¹ The Property is described as two distinct parcels of land in the current and past deeds to the Property – "Tract I" and "Tract III". However, the Town has reached the conclusion that "Tract III" as described in the current deed to the Property was never created as a separate lot. Rather, it represents a land area that was appended to (merged with) Tract I per a boundary line adjustment approval granted by the Durham Planning Board in 1984 and subsequent deed conveyance. The plan depicting the land area referred to as "Tract III" in the chain of title to the Property was recorded in the Strafford County Registry of Deeds as Plan 0025-0019 (entitled "Subdivision of the Property of Albert Laroche Wiswall Road, Durham, N.H."). As demonstrated on Durham Tax Map 17, the Town considers Tract I and III to be one parcel of land (Tax Map 17, Lot 13-2; 221 Packers Falls Road). The first recorded deed describing the parcel referred to as "Tract I" was executed in 1910 and recorded at Book 359, Page 197 in the SCRD.

SPECIAL EXCEPTION REQUEST

The Applicant seeks a Special Exception pursuant to Section 175.29 (B) of the Ordinance to allow a single-family home to be built 49'+/- from the edge of wetlands where a 100' setback is required pursuant to Section 175.59 of the Ordinance.

SPECIAL EXCEPTION CRITERIA

1. The lot upon which the exception is sought was an official lot of record, as recorded in the Strafford County Registry of Deeds, prior to the date on which this Article was posted and published in the town.

The Property was originally created by deed recorded in the Strafford County Registry of Deeds in 1910. Therefore, it is a lot of record as defined by the Ordinance.

2. The use for which the exception is sought cannot be carried out on a portion or portions of the lot which are outside the Wetland Conservation Overlay District or Shoreland Protection Overlay District without undue hardship.

There is insufficient land area outside of the WCOD to construct a single-family home without needing relief from the Ordinance. Therefore, no viable use could be made of the Property without allowing for the construction of the proposed home within the 100' wetland setback.

3. Due to the provisions of the Wetland Conservation Overlay District or Shoreland Protection Overlay District, no reasonable and economically viable use of the lot can be made without the exception.

As set forth above, there is insufficient land area outside of the 100' wetland setback to construct a single-family home. Accordingly, no reasonable or economically viable use of the lot can be made without a Special Exception pursuant to Section 175.29 (B) of the Ordinance.

4. The location and design of the building(s) and all structures shall provide for the maximum setback from the reference line consistent with reasonable use of the property considering the size, shape, slope, and natural conditions of the lot including, but not limited to, soils, flood hazard areas, and wetlands.

The location of the proposed home and septic system was determined based on site conditions, minimum building setbacks and required separation distances between the leach field, septic tank and foundation. The Applicant dug three (3) test pits on the Property as shown on the Site Plan. Of the 3 test pits, only the test pit labeled as "Test Pit 3" proved to have suitable soil for a septic leach field. The other two (2) test pits that were analyzed consisted mostly of clay soil, a soil type that is not suitable for a leach field due to its inability to drain adequately.

In the location proposed, the home will meet all applicable building setbacks pertaining to the R Zoning District. It is not only the most conforming location for construction of a single-family home on the Property from a regulatory perspective, but really the only viable option.

5. The design and construction of the proposed septic system will, to the extent practical, be consistent with the purpose and intent of this Article.

The leach field for the proposed septic system will be located 103'+/- from the edge of wetlands, thus falling outside of the 100' wetland setback. Only a corner of the septic tank would be located within 100' of the edge of wetlands. The location for the septic system is the most logical and least impacting for the Property and nearby wetlands. As such, it is consistent with the purpose and intent of the Ordinance.

6. The proposed septic system will not create a threat to individual or public health, safety and welfare, such as the degradation of ground or surface water, or damage to surrounding properties.

The Applicant will be installing a new, modern "Enviro-Septic" system designed by Presby Environmental, Inc. that will meet all DES subsurface regulations. This type of system is considered to be better than the typical stone and pipe systems. The bio-mat from the effluent forms all around the diameter of the enviro-septic pipe, not just underneath the perforated pipes of a stone and pipe system. Moreover, the system will be installed in the most suitable location of the Property that is farthest from the edge of wetlands. Accordingly, it will not represent any threat to individual or public health, safety and welfare.

7. Where site review is required, prior approval shall be obtained from the Planning Board.

The foregoing application does not require site review.

CONCLUSION

In conclusion, the Applicant has demonstrated that it has met the full criteria for granting the variance relief requested. Accordingly, the Applicant respectfully requests that the Board approve the application.

Dated: September 19, 2018

Respectfully Submitted,

ARNE LLC

A handwritten signature in dark ink, appearing to read 'Derek R. Durbin', is written over a circular stamp. The signature extends to the right with a long, sweeping horizontal stroke.

By: Derek R. Durbin, Esq.
DURBIN LAW OFFICES PLLC
144 Washington Street
Portsmouth, NH 03801
(603)-287-4764
derek@durbinlawoffices.com

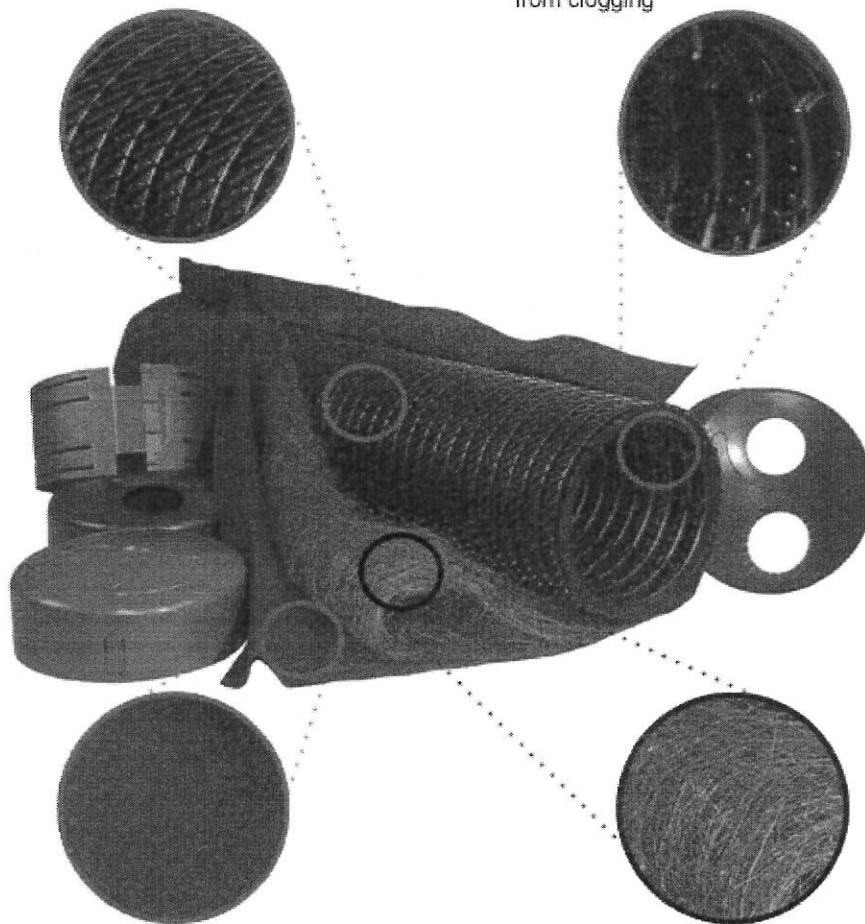
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- Improves cooling
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Skimmer Tabs at Each Perforation:

- Prevent grease and suspended solids from leaving the pipe
- Protect green fibers and black fabric from clogging



Non-woven Black Geo-textile:

- Surrounds the pipe and fibers
- Provides protected bacterial treatment surface

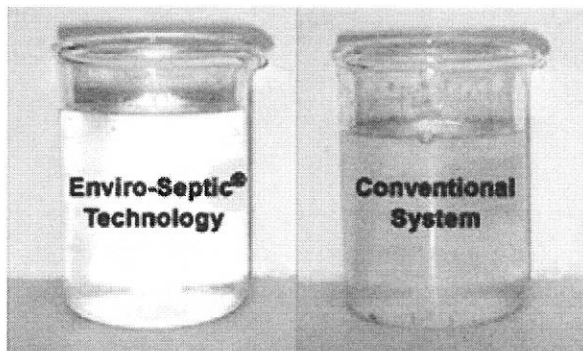
Green Plastic Fiber Mat:

- Filters more suspended solids
- Protects outer Geo-textile bacterial treatment surface
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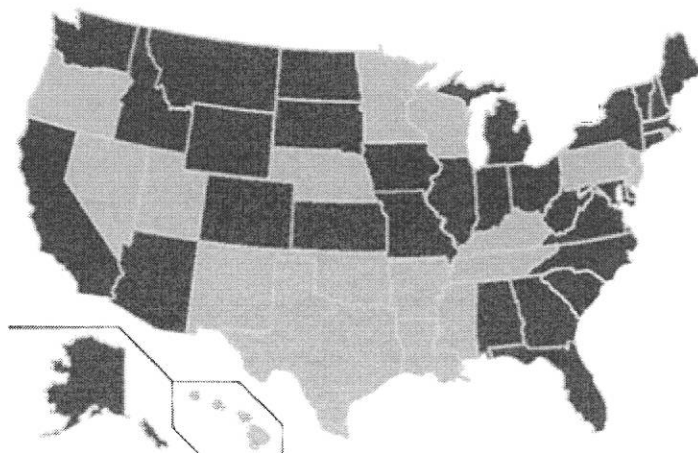
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Benefits of Enviro-Septic®

How Enviro-Septic® Works

Enviro-Septic® is an effective, passive onsite wastewater treatment system for residential, commercial, and community use. Enviro-Septic® treats wastewater that leaves the septic tank before it is dispersed to the soil, using natural bacterial processes.

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in the coming weeks. These are impressive systems. Installations is not a problem and is very cost

effective. Presby is a very good company to work with. Excellent support from Bron Bradley

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