



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

\$288 pd.  
2/19  
CASH  
**RECEIVED**  
Town of Durham  
**FEB 19 2019**  
Planning, Assessing  
and Zoning

**VARIANCE**

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

Name of Applicant Emery and Elizabeth Johnston

Address: 14 Girard Way, Newbury, MA 01951

Phone # (603) 504-2011 Email: eejrjohnston@gmail.com

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

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

Location of Property: 1 Hoitt Drive  
(Street & Number)

Tax Map & Lot number Tax Map 6 Lot Number 4-12

A Variance is requested from Article(s) XIII Section(s) 175-62 of the Zoning Ordinance to permit:

Variance request for an impervious deck,  
measuring 15' x 32.7' off the north-west portion  
of the existing structure. Below this proposed  
structure, we request to extend the existing  
carport from 12' x 24.7' to 39.7' x 12' to allow  
covered parking for two vehicles. We also  
request creating a dry cold storage space  
measuring 20.7' x 15' below the eastern portion  
of the deck for dry storage of yard care  
equipment.

**PLEASE SUBMIT A WRITTEN STATEMENT ADDRESSING HOW THE  
REQUEST FOR VARIANCE CONFORMS TO THE FIVE VARIANCE  
CRITERIA (A) THROUGH (E) BELOW.**

**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.**

(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.

Variance request for 15' x 36' Impervious Deck with 12' x 15' extension of the existing carport and an enclosed dry cold storage space measuring 20.7' x 15'.

A). The Variance Will Not Be Contrary to Public Interest:

The variance will not be contrary to public interest as the deck, carport and storage area will be on the back side of the home and approximately 47' from the north property boundary line and 27.9' from the western boundary line.

B). The Spirit of the Ordinance is Observed:

The spirit of the ordinance is observed in that this deck with the extended carport and dry cold storage space provides outdoor recreational options for us due to the limited dry open space on the back (north facing) section of the house. The current carport (which measures 12' x 24.7') does not provide sufficient covered space for more than one vehicle and the proposed larger carport would be properly pitched and drained to insure proper water drainage. The cold storage space underneath the deck would provide guaranteed dry storage for yard maintenance equipment.

C). Substantial Justice is Done:

Substantial justice is done in that although the proposed deck structure will be approximately 8' from the wetland boundary line, this area is not a high functioning wet land and we intend to use Best Management Practice such as gutters, down spouts, rain gardens, dry wells or an irrigation drip as necessary to insure that the water is controlled and directed back into the the ground.

D). The Values of the Surrounding Properties are Not Diminished:

The values of the surrounding properties will not be diminished in that the deck structure faces the back yard and will not be visible from the street. Furthermore, the deck structure will be 47' from the northern property boundary line and 27.9' from the western boundary line.

E). Literal Enforcement of the Provision of the Ordinance Would Result in Unnecessary Hardship:

Literal enforcement of the provision of the ordinance would result in unnecessary hardship in that the back yard is small and is susceptible to being wet due to run off from the hill. These are not high functioning wet lands and the deck will function as our primary outdoor living recreation as well as provide dry storage underneath. In addition, without the extension of the carport, we will not have covered parking for both of our cars.