



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

Fee = \$100 Application fee  
 \$225 Newspaper Notice  
 \$72 = 8 abutters @ \$9 each

TOTAL = \$397.00

Fees paid #146  
 2/1/24

VARIANCE

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 QIAO YAN YU

Address: 15 Cornell Dr.

Phone # 585-748-1885 Email: expere119@gmail.com

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

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

Location of Property: 15 Cornell Dr  
 (Street & Number)

Tax Map & Lot number 107-67

A Variance is requested from Article(s) XX Section(s) 175-109B7 of the Zoning Ordinance to permit:

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:

- I/we do hereby authorize Gagie Lu to file this application with the Zoning Board of Adjustment, to appear before the Board and to act on my/our behalf.
- 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.
- To the best of my/our knowledge the information contained in this application is complete and accurate.

Owner's Signature(s): [Signature] Date: 1/31/24

\_\_\_\_\_ Date: \_\_\_\_\_

## **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.



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824-2898

**AUDREY CLINE**  
Zoning Administrator  
Code Enforcement Officer  
Health Officer

TEL: (603) 868-8064  
acline@ci.durham.nh.us

### Decision or Order of the Building Inspector/Code Enforcement Officer

#### *175-12. Administrative Appeals.*

*Any person who believes that the Zoning Administrator has made an error in the interpretation or application of the provisions of this Ordinance, may appeal such determination to the Zoning Board of Adjustment as an administrative appeal under the provisions of Section 175-19. If the Board finds that the Zoning Administrator erred in his/her interpretation of the Ordinance, it shall modify or reverse the decision accordingly.*

#### *175.19. Powers and Duties*

*B. In exercising the above-mentioned powers, the Board may, in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order or decision as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.*

**Applicant:** Qiaoyan Yu, 63 Canney Road, Durham NH 03894

**Date of order:** 1/21/2024

**Deadline for application for appeal:** 1/31/2024

**Decision or Order of the Building Inspector/Code Enforcement Officer:**

Building Permit Application 24 - 00040 dated January 31, 2024, for property located at 15 Cowell Drive, is **DENIED** as the proposal does not meet the requirements of the Durham Zoning Ordinance below:

#### ARTICLE XX Standards For Specific Uses

##### 175-109. Compliance Required.

B. Accessory Buildings for Single-Family Use. The following standards apply to buildings that are accessory to single-family use, not including garages and accessory apartments.

7. The building shall be set back at least ten (10) feet from any property line.

By Durham's Building Inspector/Code Enforcement Officer:

  
\_\_\_\_\_  
Audrey Cline CEO



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824-2898  
TEL: (603) 868-8064

1/18/2024  
Certified Mail

YU, QIAOYAN  
15 COWELL DRIVE  
DURHAM, NH 03824

YU, QIAOYAN  
63 CANNEY ROAD  
DURHAM, NH 03824

**Re: Tax Map & Lot 107/ / 67/0 0/0**

**NOTICE OF VIOLATION**

Dear Yu, Qiaoyan,

This **NOTICE** is to inform you that your property at 15 Cowell Drive is in violation of *Durham Code, Chapter 38 Building Construction, Article II Permits and Standards, Section 38-6. Permit required.* There has been a structure built on the parcel without an approved building permit, and the structure violates the setbacks required.

**In order to comply you must:**

**1.) Submit a building permit application and apply for a variance from the Zoning Board of Adjustment within 10 days of receipt of this Notice of Violation.**

**Or,**

**2.) Demolish the structure within 10 days from receipt of this Notice of Violation.**

You have **ten (10) days in which to correct the violation** or in which to come to an agreement on a time frame in which the violation will be abated, or to file for an appeal under Durham Zoning Article III Section 175-10.

If you fail to comply with this notice, the Town will take all appropriate legal actions under **RSA 676:17** and other provisions of New Hampshire law to enforce Durham's Zoning Ordinance, including district or superior court action.

**Failure to comply with this Notice of Violation could result in the imposition of civil fines and penalties, including attorney's fees and costs, pursuant to RSA 676:17.** This statute provides, in part, that a violation is punishable by a civil penalty of \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue after the date on which you receive this written **Notice of Violation**. In addition, **RSA 676:17 provides that the Town shall be entitled to recovery of its costs** and reasonable attorney's fees actually expended if the Town is found to be the prevailing party in this action.

The Town's goal in this matter has always been and remains your compliance with Durham's Ordinance. If you have questions about how best to comply with these requirements, please don't hesitate to contact me.

The Town of Durham  
By Its Code Enforcement Officer  
Audrey Cline

By: \_\_\_\_\_  
Audrey Cline



