



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
MAY - 5 2025

Administration Office

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: Anne (Brady) Murphy and Sean Murphy

Address: 37 Cedar Point Road Durham NH 03824

Phone # 603 953 5925 Email: annie.brady9@gmail.com

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

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

Location of Property: 37 Cedar Point Road Durham NH 03824
(Street & Number)

Tax Map & Lot number 120/24/0/0/0

A Variance is requested from Article(s) 175 Section(s) 54 of the Zoning Ordinance to permit:

a carport/deck to be constructed at the front of the property

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): [Signature] Date: 5/5/2025
Sean Murphy Date: 5/5/2025

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.

Statement regarding the five statutory requirements for granting a variance

(A) The variance will not be contrary to the public interest

This variance would not be contrary to the public interest as it would not interfere with light or air to the surrounding properties; it is in line with the essential character of the neighborhood; it does not impact wetlands or septic requirements; it does not increase public expenditure; it does not increase traffic or create nuisance to the neighborhood; and it would increase the tax base.

(B) The spirit of the ordinance is observed

The proposed deck encroaches into the required setback, but its size and placement are in keeping with the neighborhood character, and do not impact the privacy, safety, or welfare of adjacent properties. This variance proposal preserves property values in the neighborhood. Additionally, the proposed variance does not increase the nonpermeable surface coverage of the lot, nor does it negatively impact the natural beauty of the street.

(C) Substantial justice is done

Substantial justice would be done by granting this variance because it allows reasonable use of the property for outdoor living and weather coverage for our vehicles, both of which are typical in the neighborhood. In the snow and rain, we do not have a garage or coverage for our vehicles when entering and exiting our home with a small child. We also purchased this property in part due to the beautiful view of the water, which we wish to be able to enjoy in the warmer months outside. Fairness and precedent have been set as multiple similar proposals for variances of this nature have been granted on Cedar Point Road.

(D) The values of surrounding properties are not diminished

The proposed variance would increase surrounding property values. As mentioned above, Cedar Point has a longstanding history of upgrades to properties granted by variance applications and approvals.

(E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship

As mentioned above, we have no coverage for our vehicles in the snow and rain, and have a small child we are bringing in and out of the house. This variance proposal would allow us some level of coverage in inclement weather, which could not be granted should the literal enforcement of the provisions in the ordinance be adhered to. Additionally, without this variance granted, we would not be able to enjoy our property in a way that is consistent with our neighbors. A vast majority of the homes on Cedar Point have some sort of deck that provides a view of the water.