



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

paid \$415
check # 1210
8/19/25
RECEIVED
Town of Durham
AUG 19 2025
Planning, Zoning
and Assessing

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 PAULA A. JOYCE / ROBIN A. BALDUCCI
Address: 40 COLONY COVE RD.
Phone # (603) 534-5279 Email: paulaajoyce@yahoo.com
Owner of Property Concerned SAME
(If same as above, write "Same")
Address: SAME
(If same as above, write "Same")
Location of Property: 40 COLONY COVE RD.
(Street & Number)
Tax Map & Lot number 217-1-0-0-0
A Variance is requested from Article(s) 175 Section(s) 54 of the Zoning Ordinance to permit:

TABLE OF DIMENSIONS. minimum setback from side and rear property lines is 50'

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 Paula Joyce 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): Paula Joyce Date: 8/19/25
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

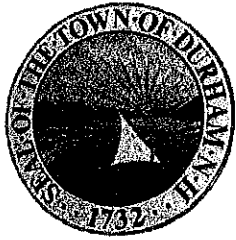
(B) The proposed use is a reasonable one.

(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: Paula Joyce & Robin Balducci, 40 Colony Cove Road, Durham NH 03824

Date of order: August 14, 2025

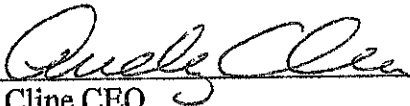
Deadline for application for appeal: September 15, 2025

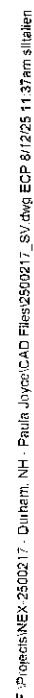
Decision or Order of the Building Inspector/Code Enforcement Officer:

Building Permit Application number 25-292, for property located 40 Colony Cove Road, Durham; Map & Lot 217/1/0/0/0, is **DENIED** as the proposal does not meet the requirements of the Durham Zoning Ordinance below:

ARTICLE XII.1 USE AND DIMENSIONAL STANDARDS 175-54. Table of Dimensions.
Minimum setback from side and rear property lines is 50'

By Durham's Building Inspector/Code Enforcement Officer:


Audrey Cline CEO



VARIANCE CRITERIA

Applicant: Paula Joyce & Robin Balducci
40 Colony Cove Rd
Durham, NH 03824
(603)534-5279

Map & Lot: 217/1/0/0/0

- A. **The variance will not be contrary to the public interest:** The proposed addition is no closer than the existing non-conforming setback distances. We purchased the house in 2001 with the same structure and lot lines that exist today. The current existing non-conforming setback distances have not negatively impacted public interest.
- B. **The spirit of the ordinance is observed:** Our request for the variance attempts to be within the spirit of the ordinance but by proposing an addition no closer than existing non-conforming setback distances allowing the following to occur:
- ▶ To have a first floor common area bathroom. Currently the only bathroom on the first level is accessed thru the bedroom. (See attachment A) This is not only inconvenient for guests but requires an individual to walk up a set of stairs to access the 2nd bathroom. As we age this is becoming a safety risk for some of our guests as the top of our stairs are winders;
 - ▶ We are limited to where an addition can be placed on our property due to the placement of the existing structure. After reviewing options, the only place is the proposed side. The proposed location allows enough room for both the existing foundation and proposed foundation to be connected and not compromising the structure. The addition would not be any closer than existing setback distances;
 - ▶ To build a bulkhead to provide a safe entrance into the basement and eliminate a known liability. Access to the basement is needed by Town officials (Assessor, fire department) as well as technicians (plumbers and gas) as our boilers, water heaters and sump pump are located in the basement. Currently the only access to our basement is thru a floor hatch. (See attachment B & C) The existing floor hatch is not only narrow but steep stairs to gain entry causing an unsafe environment. By adding a bulkhead as part of the proposed addition provides a safer form of entry and exit to our basement for both us as homeowners as well as any technician or town official.

3. **Substantial Justice is done:** Approval of this variance request will not provide us, as property owners, or our property with an unfair advantage or preferential treatment but rather allow for a safe environment to be created by approving the variance request. The existing structure does not provide us with the ability to create a safe environment due to its location on the lot without the proposed changes that are being presented within the spirit of the ordinance.

4. The values of surrounding properties are not diminished: The approval of this variance will provide a safer environment and maintain the current look of the existing house. The addition will improve the use of the home by providing a first floor master bedroom as well as repurposing the current first floor bathroom to a common area bathroom. Such approval will in no way diminish the surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

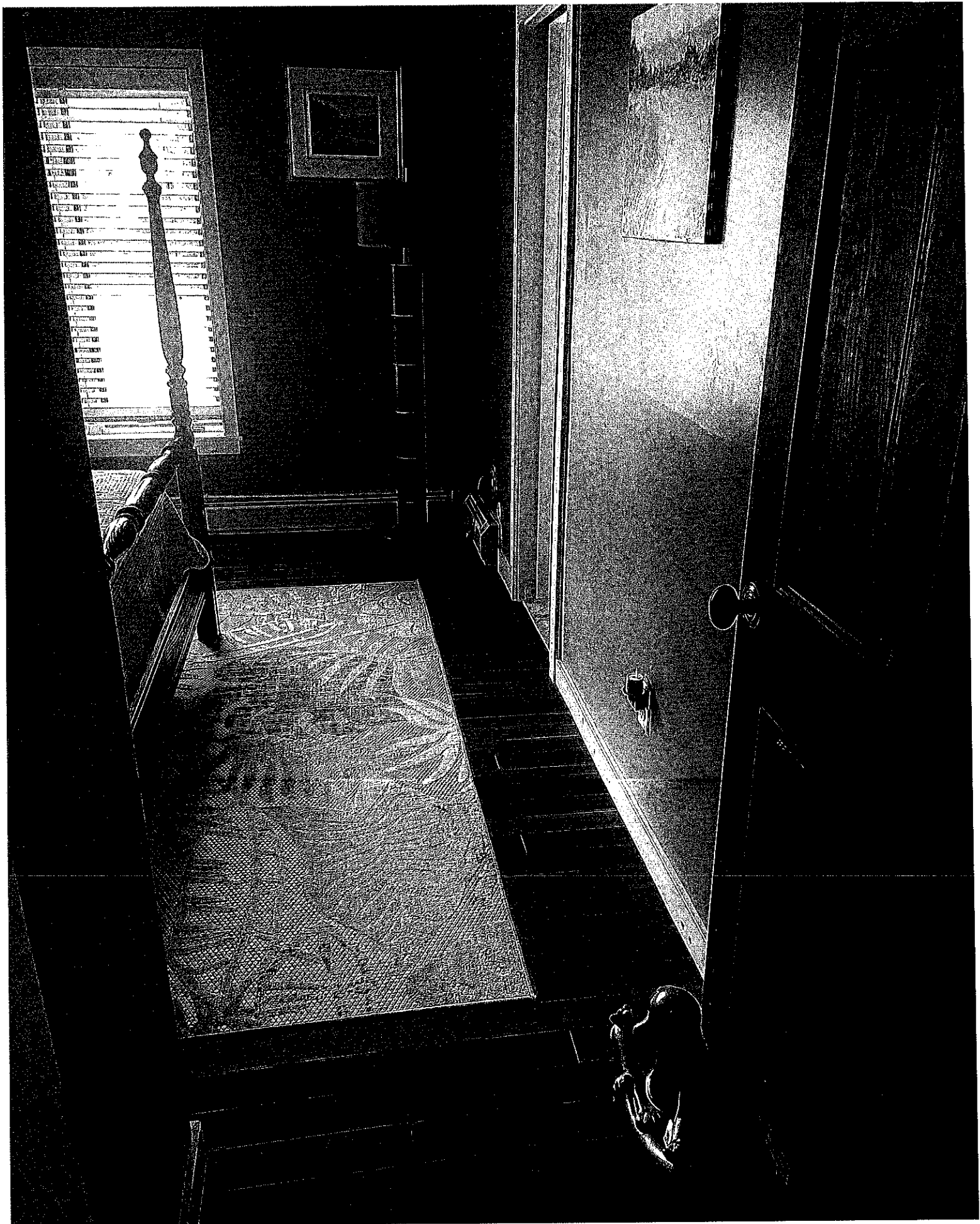
The request is being made within the spirit of the ordinance. A denial of our variance request would provide unnecessary hardship for the following reasons:

- ▶ A known liability causing safety concerns from limited access to the basement thru the current floor hatch for not only us but also town officials and technicians needing access to inspect the property and service heaters, water tanks etc.
- ▶ Not having a common area bathroom is a safety concern as our extended families increase in size and ages. Use of the 1st floor bedroom would force elderly guests to manage the stairs to access an open bathroom causing a safety concern due to the steep stairs and that they are winders;
- ▶ Not having a first floor master bedroom will provide future hardship as we age and find it necessary to have many common house functions on the first floor without the necessity of using stairs for safety reasons.

Thank you for your consideration towards our variance request.

Paula Joyce
Robin Balducci

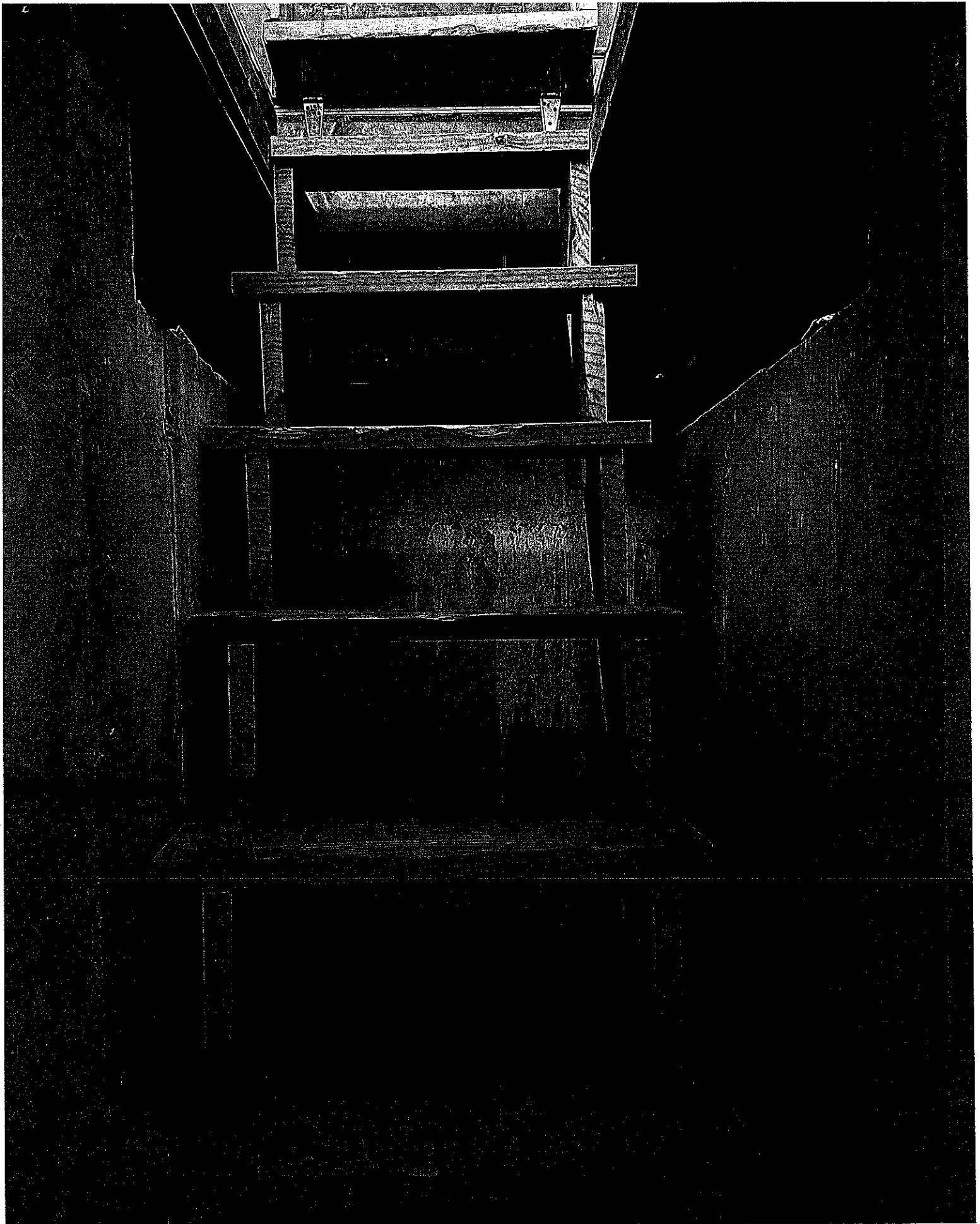
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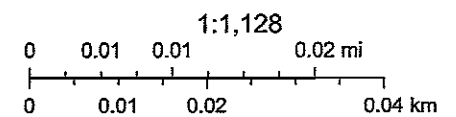
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Town of Durham



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Nearmap, Parcel mapping, using a variety of record information sources, completed by CAI Technologies, Map data © OpenStreetMap contributors,

The Town of Durham shall assume no liability for any errors,

BARRETT REV TRUST, NANCY W
 36 COLONY COVE RD
 DURHAM, NH 03824

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 36 COLONY COVE RD
 DURHAM, NH 03824

BARRETT REV TRUST, NANCY W
 36 COLONY COVE RD
 DURHAM, NH 03824

BENNING FAMILY TRUST
 NANCY W BARRETT, TRUSTEE
 36 COLONY COVE RD
 DURHAM, NH 03824

BENNING FAMILY TRUST
 NANCY W BARRETT, TRUSTEE
 36 COLONY COVE RD
 DURHAM, NH 03824

BENNING FAMILY TRUST
 NANCY W BARRETT, TRUSTEE
 36 COLONY COVE RD
 DURHAM, NH 03824

COLONY COVE ROAD REALTY TRUST
 32 COLONY COVE RD
 DURHAM, NH 03824

COLONY COVE ROAD REALTY TRUST
 32 COLONY COVE RD
 DURHAM, NH 03824

COLONY COVE ROAD REALTY TRUST
 32 COLONY COVE RD
 DURHAM, NH 03824

BICKS, MICHAEL B
 SCHLEFER, ELLEN K
 28 COLONY COVE RD
 DURHAM, NH 03824

BICKS, MICHAEL B
 SCHLEFER, ELLEN K
 28 COLONY COVE RD
 DURHAM, NH 03824

BICKS, MICHAEL B
 SCHLEFER, ELLEN K
 28 COLONY COVE RD
 DURHAM, NH 03824

COUSE REV TRUST, NATHAN C
 22 COLONY COVE RD
 DURHAM, NH 03824

COUSE REV TRUST, NATHAN C
 22 COLONY COVE RD
 DURHAM, NH 03824

COUSE REV TRUST, NATHAN C
 22 COLONY COVE RD
 DURHAM, NH 03824

EHRENWORTH, MARY ANN LOHNES
 HALLETT, RICHARD
 18 COLONY COVE RD
 DURHAM, NH 03824

EHRENWORTH, MARY ANN LOHNES
 HALLETT, RICHARD
 18 COLONY COVE RD
 DURHAM, NH 03824

EHRENWORTH, MARY ANN LOHNES
 HALLETT, RICHARD
 18 COLONY COVE RD
 DURHAM, NH 03824

RANDALL LIV REV TRUST, VICKI L
 19 COLONY COVE RD
 DURHAM, NH 03824

RANDALL LIV REV TRUST, VICKI L
 19 COLONY COVE RD
 DURHAM, NH 03824

RANDALL LIV REV TRUST, VICKI L
 19 COLONY COVE RD
 DURHAM, NH 03824

HARDIE, LESLIE G
 HARDIE, SUSAN M
 PO BOX 5088
 CAREFREE, AZ 85377

HARDIE, LESLIE G
 HARDIE, SUSAN M
 PO BOX 5088
 CAREFREE, AZ 85377

HARDIE, LESLIE G
 HARDIE, SUSAN M
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 CAREFREE, AZ 85377

PAT MCLAUGHLIN, P.E.
 GPI
 44 STILES RD
 SALEM, NH 03079

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 GPI
 44 STILES RD
 SALEM, NH 03079

PAT MCLAUGHLIN, P.E.
 GPI
 44 STILES RD
 SALEM, NH 03079

BARSTOW TRUST, DIANTHA L
 30 COLONY COVE RD
 DURHAM, NH 03824

BARSTOW TRUST, DIANTHA L
 30 COLONY COVE RD
 DURHAM, NH 03824

BARSTOW TRUST, DIANTHA L
 30 COLONY COVE RD
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