



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
NOV 18 2025
Planning, Zoning
and Assessing

Fees paid \$488.00
Check # 2425

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 Jeff Berlin (10 Cowell Dr. LLC)

Address: 103 Cowell Dr. Durham NH 03824

Phone # 603-953-4014 Email: Jeff@BerlinPropertiesNE.com

Owner of Property Concerned 10 Cowell Dr. LLC
(If same as above, write "Same")

Address: 277 Main St. Durham NH 03824
(If same as above, write "Same")

Location of Property: 10 Cowell Dr.
(Street & Number)

Tax Map & Lot number 108 - 27

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

See Attached

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 _____ 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): Jeff Berlin Date: 11/18/25

Date: _____

Variance Application

11/18/25

Variance Narrative – 10 Cowell Drive, Durham NH

I, **Jeff Berlin**, on behalf of **10 Cowell Dr LLC**, respectfully request a variance to allow the construction of a **12-unit multifamily residential building with 18 bedrooms** and associated parking for 22 vehicles.

The following relief is requested:

- **Article 12.1, Section 175-53 Table of Uses, #3 Residential Uses**
Relief to permit *Residence – Multi-Unit*, which is not currently allowed in the RA district.
- **Article 12.1, Section 175-54, Table of Dimensional Requirements**
 - Minimum lot area per dwelling unit (requesting 1250 sf per dwelling unit)
 - Front setback: **15 ft requested** (30 ft required)
 - Side setback: **8 ft requested** (10 ft required)
 - Rear setback: **8 ft requested** (20 ft required)
 - Maximum height: **35 ft requested** (30 ft allowed)
 - Maximum impervious surface: **66% requested** (33% permitted)
- **Article 21 – Off-Street Parking**
 - Section 175-11A: Number of vehicles – **22 spaces**
 - Section 175-11B: Parking placement consistent with the setback relief above
 - Any additional relief necessary to support the proposed multi-unit residential structure

1. Variance is Not Contrary to the Public Interest / Spirit of the Ordinance is Observed

The **purpose of the RA District (175-39)** is to maintain the character and integrity of existing high-density residential areas that are served by public water and sewer, and to ensure that new development is compatible with that established character.

Although Cowell Drive itself is primarily single-family, this specific parcel is **physically bordered on three sides** by existing **non-conforming multifamily, mixed-use, and commercial properties**, including a large parking lot, a church, and the post office. These surrounding uses exert a unique influence on this lot that is not present deeper inside the RA district.

The proposed multi-unit residential building is:

- **consistent** with the density and massing of immediately surrounding development,
- **compatible** with the existing streetscape,
- and **better aligned** with the transitional nature of this specific location than a large single-family structure.

Under current zoning, the property's only feasible "by-right" development would be a **large 14-bedroom single-family structure**, which—under New Hampshire law—could operate as a **rooming house, lodging house, fraternity-style residence, or sober-living home** provided it meets state fire code.

These uses are **allowed by right** and are considered the **highest and best use** if relief is not granted.

However, those outcomes would be **less aligned with the goals of the RA zone**, less beneficial to neighborhood stability, and would not maintain the character the ordinance seeks to protect. By contrast, a traditional multifamily building provides:

- predictable occupancy,
- professional management,
- appropriate parking,
- consistent long-term tenancy,
- and a significantly lower intensity of daily disturbances than the by-right alternatives.

Thus, granting the requested relief **better preserves** the public interest and the spirit and purpose of the ordinance than strict enforcement would.

2. Substantial Justice is done

The best part of this plan is that **absolute substantial justice is done** because it aligns the interests of the landowner and the interests of the public.

The multifamily use would preserve the character of the neighborhood better than the alternative. As well the proposed use fits into the general public's interest in **adding housing designed for young families and the workforce**. The 2- and 1-bedroom apartments cater to this public need much more than the alternative of a sober home/fraternity.

This proposal has been developed with the interests of the public at its core. **As I currently live across the street it should be evident that I am interested in maintaining the character of the neighborhood while building housing opportunities for a greater diverse demographic.**

3. Values of Surrounding Properties Will Not Be Diminished

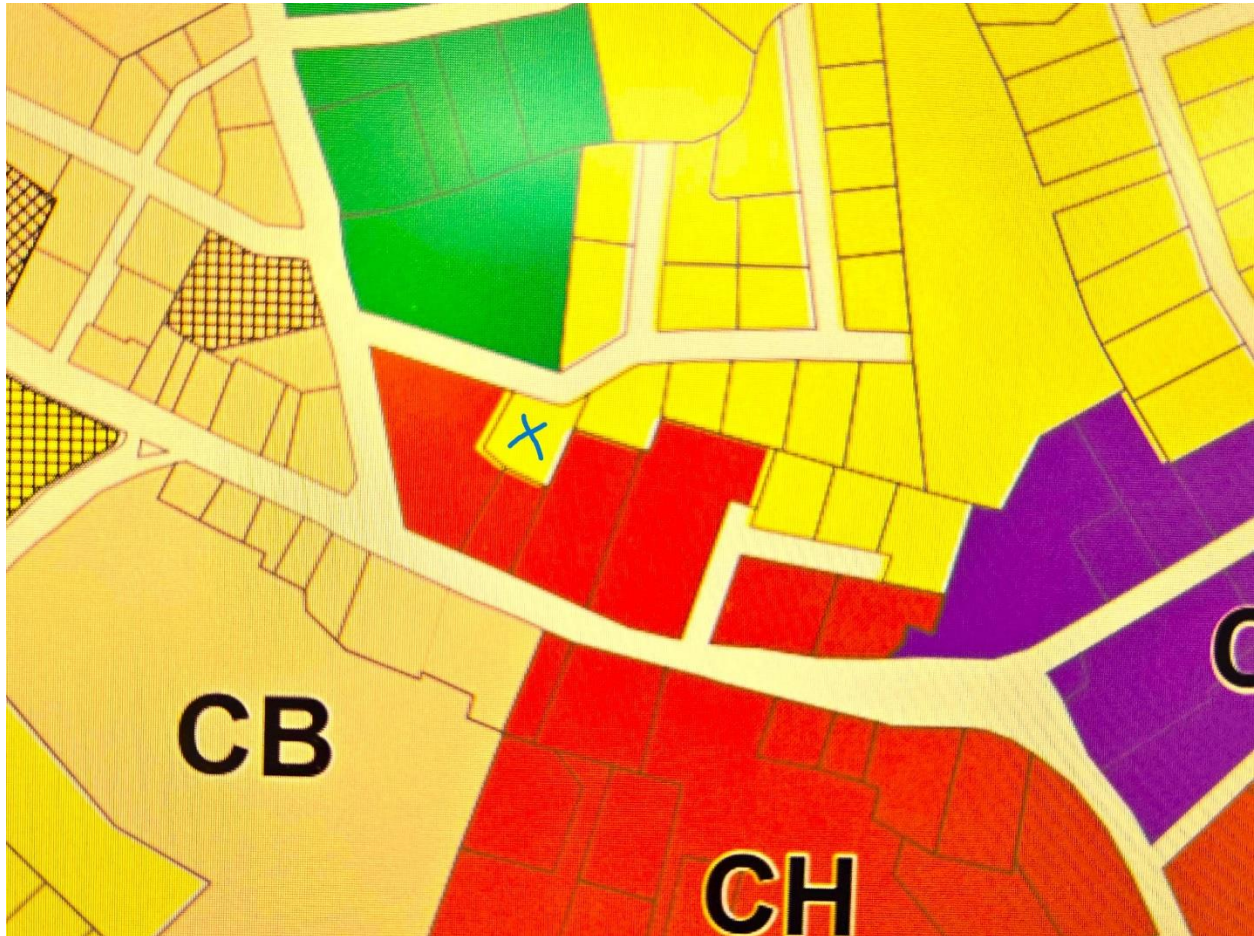
The Board may consider expert testimony as well as its own knowledge of local conditions. A modern, well-designed multifamily building with adequate setbacks, on-site parking, and architectural harmony will **not diminish neighboring property values**, and in many cases can **enhance overall neighborhood stability**.

By contrast, the *by-right alternative*—a 14-bedroom lodging/rooming-type use—would likely create a **higher turnover occupancy**, more varied activity, and potentially more noise and traffic. Those conditions traditionally correlate with **downward pressure on surrounding values**.

The multifamily proposal is therefore the **least disruptive, most stability-enhancing, and most value-preserving option** available for this parcel.

4. Literal Enforcement of the Ordinance Results in Unnecessary Hardship

Special Conditions of the Property



This parcel is uniquely affected by its surroundings. As shown on the map, 10 Cowell Drive is surrounded by commercial zones and;

- bordered by a **parking lot**,
- adjacent to **mixed-use and multifamily structures**,
- and near **commercial activity** that does not characterize a typical RA-zoned interior lot.

These conditions distinguish the property from others in the RA district and make strict application of the RA dimensional and use requirements **unreasonable and inconsistent** with the practical realities of the site.

(a) No Fair and Substantial Relationship Exists

The general purpose of prohibiting multifamily in the RA zone is to preserve low-impact, family-oriented residential character. But this site—surrounded by non-RA-type uses—*no longer shares that character*.

Enforcing single-family-only zoning here would not meaningfully advance the ordinance's public purpose.

(b) The Proposed Use Is Reasonable

A modest 12-unit multifamily building is not only reasonable—it is the **most reasonable** use given the surrounding environment, lot geometry, and infrastructure.

Conclusion

Granting this variance allows Durham to:

- avoid the undesirable, by-right lodging/rooming use,
- preserve neighborhood character,
- maintain surrounding property values,
- ensure orderly development, and
- allow a use that is **more compatible** with the actual, existing conditions surrounding 10 Cowell Drive.

The requested relief represents a **balanced and responsible solution** that best aligns the Town's ordinance with the site's unique characteristics and the **community's long-term interests**.



ARCHITECT
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ITE PLAN

Project number	2519
Date	11/18/25
Drawn by	NI
Checked by	NI

CS4

Scale $1/8" = 1'-0"$

CONCEPT SET
NOT FOR CONSTRUCTION

