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OF COUNSEL
 NICHOLAS R. AESCHLIMAN

RETIRED
 ROBERT B. DONOVAN

ROBERT A. BATTLES
 (1951-2010)

July 30, 2014

Karyn Forbes, Chair
 Zoning Board of Adjustment
 Town of Barrington
 333 Calef Highway
 Barrington, NH 03825

Re: 111 Bulley Road, Map 118, Lot 49
 Application for Variance

Dear Chair Forbes and Board Members:

Enclosed please find Application for Variance together with supporting information and filing/abutter notice fees in the amount of \$307.00.

The Applicant proposes to remove the existing non-conforming structure which has dimensions of 32' x 33' and square footage of 1056 sq. ft. A new dwelling would then be constructed with dimensions of 28' x 38' and 1064 sq. ft. of first floor space and a garage under with dimensions of 28' x 26'. The proposed structure will be centered in the lot. In doing so, the new structure will become conforming as to the rear lot line and will become more conforming as to the front yard setback. The other setbacks will remain non-conforming.

We respectfully request that this matter be placed on the Board's August 20, 2014 agenda. In the meantime, if you have any questions do not hesitate to contact me.

Very truly yours,
 DONAHUE, TUCKER & CIANDELLA, PLLC

Sharon Cuddy Somers
 SCS/sag
 Enclosures

cc: Deborah & Dwight Chick
 Tim Mason, Cabernet Builders
 Tom Brouillette, LLS

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DONAHUE, TUCKER & CIANDELLA, PLLC

Exeter Office: 225 Water Street, P.O. Box 630, Exeter, NH 03833, 603-778-0686
 Portsmouth Office: 111 Maplewood Avenue, Suite D, Portsmouth, NH 03801, 603-766-1686
 Meredith Office: 56 NH Route 25, P.O. Box 214, Meredith, NH 03253, 603-279-4158

www.dtclawyers.com

PART III – PROJECT DESCRIPTION/VARIANCE DETAILS

Case No. 118-49-GR-14-ZBA

Project Name Chick Property, 111 Bulley Road

Location Address 111 Bulley Road

Map and Lot 118/49

Zoning District (Include Overlay District if Applicable) General Residential

Property Details:

- Single Family Residential Multifamily Residential Manufactured Housing
 Commercial Mixed Use Agricultural Other

Use: Single Family Residential

Number of Buildings: 1 Height: _____

Setbacks: Front 25' Back 32'+ Side 26' Side 20'

Description of Request

Cite the Section of the Zoning Ordinance you are requesting a Variance or Special Exception for. If this is an Appeal from an Administrative Enforcement Order, Planning Board Decision, or Zoning Board of Adjustment Decision, please attach pertinent documentation:

Variance from Article 4, Section 4.1.1, Table 2 to allow a front setback of 25' where 40' is required; a side setback of 26' where 30' is required and a side setback of 20' where 30' is required.

Project Narrative: *(Please type and attach a separate sheet of paper)*

The project consists of a proposal to remove the existing non-conforming structure which has dimensions of 32' x 33' and square footage of 1056 sq. ft. A new dwelling would then be constructed with dimensions of 28' x 38' and 1064 sq. ft. of first floor space, and a garage under with dimensions of 28' x 26'. The proposed setbacks are shown on the attached plan; additionally, note that there will be a one foot overhang on all sides of the building and these overhangs are reflected in the relief requested. The proposed structure will be centered on the lot. In doing so, the new structure will become conforming as to the rear lot line and will become more conforming as to the front yard setback. The side yards will remain non-conforming.

Barrington Zoning Ordinance Requirements:

See Description Request above

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Request: *(You may type and attach a separate sheet of paper)*

Variance from Article 4, Section 4.1.1, Table 2 to allow a front setback of 25' where 40' is required; a side setback of 26' where 30' is required and a side setback of 20' where 30' is required.

PART IV – If this is a JUSTIFICATION FOR VARIANCE

The Zoning Board of Adjustment may not authorize a zoning ordinance variation unless ALL of the following criteria are met. Please provide evidence that the requested Variance complies by addressing the issues below.

1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

The property contains special conditions which distinguish it from other properties in the neighborhood. It is an irregularly shaped corner lot. The existing house is non-conforming as to the front and rear yard setbacks. Site constraints such as leach field locations determine where the new building can be located; additionally, efforts are made to "center" the building on the lot so as to evenly distribute the impact of any encroachments into the front yard (facing Lots 47, 46 & 45) and the side yard (facing Lot 50).

No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of the ordinance to the property because the purpose of the ordinance is to prevent a sense of overcrowding for abutting properties. The proposed building will replace a building which is almost completely nonconforming as to setbacks. The new building will make the rear yard conforming and will improve the degree of conformity of the front yard setback. The lot is irregularly shaped and a conforming building envelope would also be irregularly shaped; it is not possible to build a new home with a workable floor plan and footprint within the confines of the allowed building envelope. Therefore the proposed use is a reasonable one.

2. Granting the variance would be consistent with the spirit of the Ordinance.

See #5.

3. Granting the variance will not result in diminution of surrounding property values.

The surrounding properties are mostly non-conforming residential uses and vacant lots. Reconstruction of the dwelling unit will not create a negative impact on adjacent properties.

4. Granting of the variance would do substantial justice.

This criteria operates under the general rule that each case must be individually weighed to determine whether the loss to the individual will be outweighed by a gain to the general public. If such loss is not outweighed by a corresponding gain to the public, then an injustice will occur. In this instance, all other variance criteria are met. Denying the variance will prevent the applicant from proceeding with the reconstruction of the dwelling, which is recognized as an appropriate use in the zone. No

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corresponding gain will be produced for the general public if the variance is denied since the existing structure is already non-conforming and this variance request will cure or decrease some of those non-conformities.

- 5. Granting of the variance would not be contrary to the public interest.

To answer this question , the ZBA must look at whether the variance will “ ...unduly , and in a marked degree...” conflict with the basic zoning objectives of the ordinance Chester Rod and Gun Club v. Town of Chester, 152 N.H. 577 at 581 (2005), Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 at 514. (2011) In making this determination, the ZBA should look at whether granting the variance will alter the essential character of the neighborhood or threaten public health, safety or welfare. The proposed reconstruction is consistent with the neighboring uses and structures and will not threaten public health, safety or welfare.

Here, the purpose of the ordinance is to prevent overcrowding. The neighborhood consists of residential properties, all on a peninsula in Swain’s Lake. Some of the lots are vacant, but of the lots that do have structures, many of the structures are non-conforming as to setbacks, including those immediately adjacent to the subject property. The proposal will actually reduce some elements of setback non-conformity, therefore the proposal will not alter the essential character of the neighborhood, nor will the proposal do anything to threaten public health , safety or welfare.

DEBORAH L. CHICK TRUST

X [Signature] TTEE X Deborah Chick 7/30/14
Signature of Applicant Date

X [Signature] TTEE X Deborah Chick 7/30/14
Signature of Owner Date

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LETTER OF AUTHORIZATION

We, Deborah L. Chick and Dwight E. Chick, Trustees of the Deborah L. Chick Trust, as owner of property depicted on Tax Map 118, Lot 49, do hereby authorize, Donahue, Tucker and Ciandella, as their attorneys, and Timothy Mason, Manager of Cabernet Builders of Stratham, LLC to execute all land use applications to the Barrington Zoning Board of Adjustment and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: July 30, 2014

Stephane Aubrey
Witness
Stephane Aubrey
Witness

THE DEBORAH L. CHICK TRUST
Deborah L. Chick
Deborah L. Chick, Trustee
Dwight E. Chick TTEE
Dwight E. Chick, Trustee

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ABUTTER LIST
DEBORAH L. CHICK TRUST
Tax Map 118, Lot 49, 111 Bulley Road

	<u>Tax Map/Lot #</u>	<u>Owner of Record</u>
OWNER/APPLICANT:	118/49 & 44	Dwight & Deborah Chick, Trustees Deborah L. Chick Trust 9 Stevens Drive Newmarket, NH 03857
ABUTTERS:	115/1 & 2	Laurie Raymond 5 Courtney Drive Sandown, NH 03873
	118/42 & 52	Pearlman/Leary c/o Paul & Mary Leary PO Box 225 Barrington, NH 03825
	118/43 & 50	Mark & Anne Weidman, Trustees Weidman Rev. Living Trust 10 Tall Pines Stratham, NH 03885
	118/45	Susan Bock, Trustee Lori Chabot Rev. Living Trust 17 Goss Road North Hampton, NH 03862
	118/46	David Damphouse 16 Route 125 Kingston, NH 03848
	118/47	Laura Cunningham Cavanagh William Cavanagh 280 North Bedford Street East Bridgewater, MA 02333
	118/48 & 54	Winter S. Mitchell, Trustee IS Realty Trust 3 Vintage Drive Exeter, NH 03833

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118/53

Edward Hally
19 Fairview Avenue
Lynn, MA 01904

ATTORNEY FOR APPLICANT:

Sharon Cuddy Somers, Esquire
Donahue, Tucker & Ciandella
225 Water Street
Exeter, NH 03833

SURVEYOR:

Thomas Brouillette, LLS
39 Park Street
Exeter, NH 03833

BUILDER:

Cabernet Builders of
Stratham, LLC
PO Box 291
Stratham, NH 03885

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Barrington Zoning Board of Adjustment Zoning Ordinance Variance and Special Exception Application Checklist

Please schedule a meeting with staff before submitting your application.

This checklist has been prepared to assist you in submitting a complete application to the Town of Barrington. At the Pre-Application meeting, staff will check off the items on this list that are required with your submission.

This document constitutes a public disclosure under RSA Chapter 91 – A, Access to Governmental Records and Meetings.

Date 7/30/2014 Case No. 118-49-GR-14-ZBA
Owner Deborah L. Chick Trust Mailing Address 9 Stevens Drive, Newmarket, NH 03857
Phone _____ Email _____

PART I – GENERAL REQUIREMENTS

All Graphics shall be to Scale and Dimensioned

Description of Documents Required for Complete Application. No application shall be accepted without all items marked below.

Req'd	Rec'd	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1. Zoning Board of Adjustment Application Checklist (<i>this form</i>)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	2. ZBA General Information (Article(s) and Section(s) of Ordinance)
<input type="checkbox"/>	<input type="checkbox"/>	3. Appeal and Decision
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4. Fees - \$150.00 Application <input type="checkbox"/> \$ 75.00 Legal Notice <input type="checkbox"/> \$ 7.00 per US Post Office Certified Letter <input type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	5. Completed Project Application Form <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Special Exception <input type="checkbox"/> Appeal
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	6. Notarized Letter of Authorization (from property owner(s) if property owner did not sign the application form)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	7. Project Narrative

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- 8. HOA Approval (*if applicable*)
- 9. Context or Locus Map (Show Surrounding Zoning Districts)
- 10. Existing Conditions Site Plan or Recorded Subdivision Plan to include well and septic location (may be found at Strafford County Registry of Deeds).
- 11. Existing Conditions Photo Exhibit (*See instruction page for submitting photos*)
Up to four photos may be shown per 8 1/2" X 11" page size
 - a. Show all existing structures on site
- 12. List of Certified Abutters (Include Applicant and all licensed professionals, i.e., engineer, architect, land surveyor, or soil scientist, whose seals are affixed to the plan, as well as any holder of a conservation or agricultural easement)
- 13. Mailing Labels (4 sets)

PART II – REQUIRED PLANS AND RELATED DATA
All Graphics and Plans Shall be to Scale and Dimensioned

- 1. Site Plan - ***Drawn and Stamped by Registered Land Surveyor***
 - a. 24" X 36" – 2 Copies
 - b. 11' X 17" – 6 Copy
 - c. 8 1/2 " X 11" – 1 Copy
- 2. Elevations: Show all sides of building and indicate building heights
 - a. 24" X 36" – 2 Copies
 - b. 11' X 17" – 6 Copy
 - c. 8 1/2 " X 11" – 1 Copy
- 3. Floor Plans
 - a. 24" X 36" – 2 Copies
 - b. 11' X 17" – 6 Copy
 - c. 8 1/2 " X 11" – 1 Copy
- 4. All drawings and any revised drawings must be submitted in PDF format
- 5. OTHER: _____
- 6. Your Appointment Date and Time for Submitting the Complete Application is: _____

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Staff Signature 8/6/14 Date

Land Use Department
Town of Barrington; 137 Ramsdell Lane; Barrington, NH 03825
barrplan@metrocast.net Phone: 603.664.5798

PART III – PROJECT DESCRIPTION/VARIANCE DETAILS

Case No. 118-49-GR-14-ZBA

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Map and Lot 118/49

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- Multifamily Residential
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Barrington Zoning Ordinance Requirements:

See Description Request above

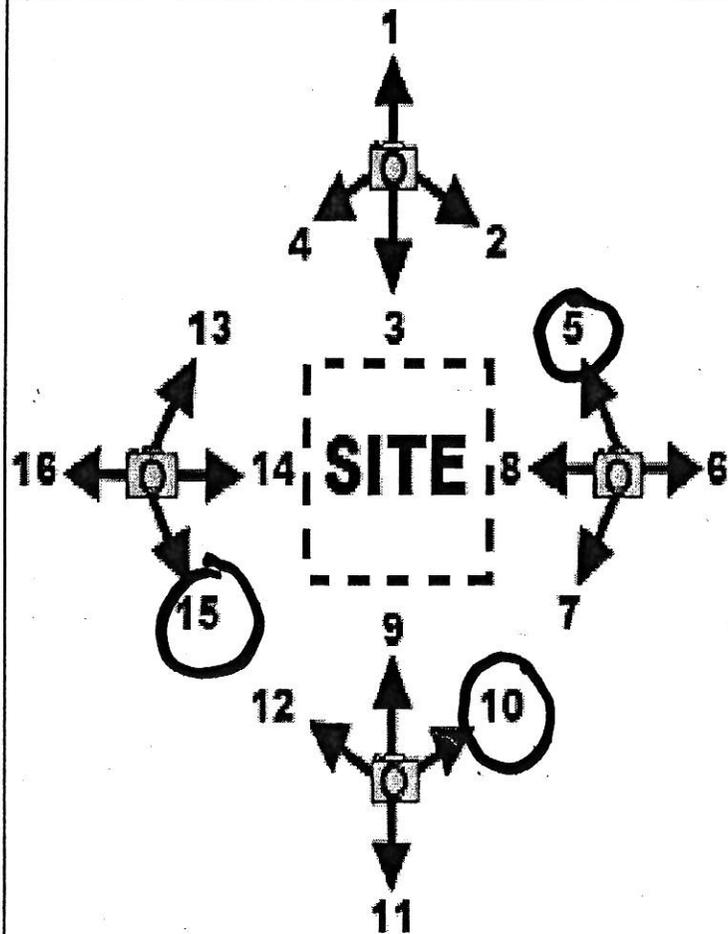
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SITE / CONTEXT PHOTOS

Using Guidelines Below

Provide color photographs showing the site and surrounding buildings/properties in order to provide staff, boards and commissions with a visual impression of the current site conditions.

1. Photos are to be taken looking toward the site and adjacent to the site.
2. Photos should show adjacent improvements and existing on-site conditions.
3. Number the photographs according to view.



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