

Application Date: <u>2/23/23</u>	Case Number: <u>2023-02</u>
Date Accepted: <u>2/28/23</u>	Hearing Date: <u>April 13, 2023</u>
Code Enforcement Officer: <u>—</u>	<b>OFFICE USE ONLY</b>

**TOWN OF ASHLAND**  
**20 HIGHLAND STREET – PO BOX 517 – ASHLAND, NH 03217**  
**603-968-4432 – FAX 603-968-3776**  
**landusezba@ashland.nh.gov**

**Zoning Board of Adjustment Application**

**All submissions must include Site Plans prepared by a New Hampshire licensed surveyor containing, as a minimum, the following details:**

- The lot dimensions and any bounding streets with their right of way and pavement widths.
- The locations and dimensions of existing or required service area, buffer zones, landscaped areas, recreational areas, signs, right-of-way, streams, drainage, and easements.
- All existing and proposed buildings, additions or other structure with their dimensions.
- All setback dimensions (front, rear, side) and building heights.
- Computed lot and building areas with percentages of lot occupancy.
- Elevations or contours if required or relevant.
- The location and number of parking spaces and traffic lanes with their dimensions.
- Any required loading, unloading and trash storage areas.

**All site plans shall be submitted electronically as well as hard copy (seven 11” x 17” and three 22” x 34”).**

**Property Owner(s) / Applicant(s)**

Name(s): Joshua W Davis and Madison R Davis

Mailing Address: 30 WASHINGTON STREET, ASHLAND, NH

Physical Address of Property: 30 WASHINGTON STREET, ASHLAND, NH

Tax Map & Lot: 111-040 Zone: VILLAGE RESIDENTIAL - W-W&S

Work Telephone: (603)318-8636 Home Telephone: (603)318-8636

Email address: JWDAVIS315@GMAIL.COM

*Please be advised that if you, as the property owner, are having an agent present your application to the Zoning Board, the “Letter of Authorization” form (page 7) must be filled out completely and submitted at the time of the application submission.*

**Agent(s)**

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

**SECTION 1: TYPE OF APPLICATION (Check all that apply)**

- Appeal of Administrative Decision *(Complete Sections 2, 3 and 6)*
- Application for Special Exception *(Complete Sections 2, 3 and 5)*
- Application for Variance *(Complete Sections 2, 3 and 4)*
- Equitable Waiver of Dimensional Requirements *(Complete Sections 2, 3 and 4)*
- Application for Rehearing of ZBA Decision *(Complete Sections 2 and 3)*

**SECTION 2: ABUTTERS**

For the purpose of proper notification of all parties concerned, this application must include the correct names and addresses of all abutters, property owner(s), agent(s) and any professionals consulted in the preparation of this application (for example: engineers, architects, land surveyors and soil scientists). If additional space is required, please feel free to use additional paper.

**Property Owner(s):** JOSHUA W DAVIS & MADISON R DAVIS

Mailing Address: 30 WASHINGTON STREET, ASHLAND, 03217

**Surveyor(s):** \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Agent:** \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Tax Map & Lot:** 111-041 Name(s): JEFFREY A HLYADYK

Mailing Address: 27 WASHINGTON STREET, ASHLAND, NH 03217

**Tax Map & Lot:** 111-039 Name(s): BETTY MARSH

Mailing Address: PO BOX 47, ASHLAND, NH 03217

**Tax Map & Lot:** 110-023 Name(s): TOWN OF ASHLAND

Mailing Address: PO BOX 517, ASHLAND, NH 03217

**Tax Map & Lot:** 110-032 Name(s): MICHELLE FISTEK

Mailing Address: 31 CARR AVENUE, ASHLAND, NH 03217

**Tax Map & Lot:** \_\_\_\_\_ Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Tax Map & Lot:** \_\_\_\_\_ Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Tax Map & Lot:** \_\_\_\_\_ Name(s): \_\_\_\_\_

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Mailing Address: \_\_\_\_\_

Tax Map & Lot: \_\_\_\_\_ Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**SECTION 3: FEES**

Application Fee: \$ 110.00

Abutter Notices: 5 **Number of abutters** including property owner(s),  
surveyor, and agent if applicable **x the current**  
**certified return receipt postage fee**

**Total** \$150.50

(Checks to be payable to the Town of Ashland)

\*\*Notice to Applicant: The Board reserves the right to require payment of additional fees or costs that may be required during consideration of the application.

**SECTION 4: VARIANCE**

**Reason for Variance Request**

**Denial by Planning Board.**

**Date:** \_\_\_\_\_ **Reason:** \_\_\_\_\_  
(attach Notice of Decision)

**Denial by Building Inspector**

**Date:** \_\_\_\_\_ **Reason:** \_\_\_\_\_  
(attach denied permit application)

**Other (cite Zoning Ordinance section)** \_\_\_\_\_

**Brief Description of Proposal:**

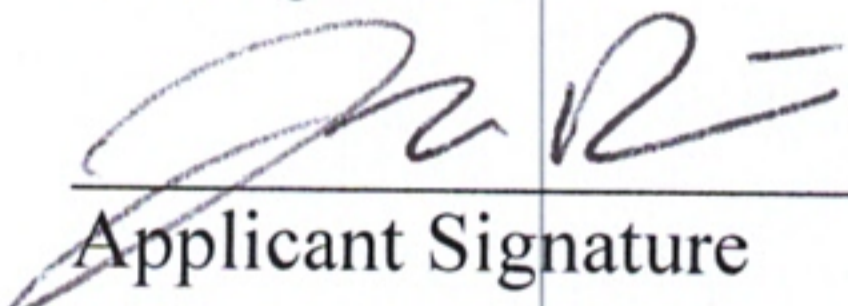
I AM WRITING TO REQUEST A VARIANCE TO ARTICLE 3.6a OF THE ZONING ORDINANCE WHICH REQUIRES A MINIMUM OF TWO ACRES TO KEEP SMALL FARM ANIMALS FOR NON-COMMERCIAL USE ON THE PROPERTY. OUR LOT, THOUGH SMALLER, IS PROTECTED BY A TREE LINE ON THE THREE NON-STREET FACING SIDES. MY FAMILY WOULD LIKE TO RAISE NO MORE THAN 10 SILVER APPELYARD DUCKS WHICH WILL NEVER BE OUTSIDE OF OUR ALREADY FENCED-IN BACKYARD.

**Your Variance cannot be granted unless the Zoning Board finds that the following statements are true. Provide a written explanation and supporting evidence for each of these statements.**

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished;
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - a. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area;
    - (i) 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
    - (ii) The proposed use is a reasonable one.
  - b. If the criteria in subparagraph (a) 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.

The definition of "unnecessary hardship" set forth in subparagraph (5) 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.

I/We certify that we have read and personally reviewed this application and the materials submitted herewith, and that the information contained herein is true, correct and complete to the best of my/our knowledge and belief. I/We have read and will prepare testimony in support of the above necessary findings of fact.

  
\_\_\_\_\_  
Applicant Signature

2-22-2023  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agent Signature

\_\_\_\_\_  
Date

February 22, 2023

Town of Ashland – Zoning Board  
PO Box 517  
20 Highland Street  
Ashland, NH 03217

Re: 30 Washington Street – Zoning Board of Adjustment Application for Variance Section 4

Dear Town of Ashland Zoning Board,

I am writing this memo to fulfill the requirements stated in Section 4 of the Zoning Board of Adjustment Application for a Variance to the Town Zoning Ordinances. I live at 30 Washington Street and my family would like to raise ducks on our property.

Per the Town Zoning Ordinance, because we are in the Village Residential w/ water and sewer we are required to own no less than 2 acres of land to do so. While our property is less than a half an acre, we feel our property is suitable for sustaining a small number of ducks and I will support this by answering the questions in Section 4 of the application.

**1. The variance will not be contrary to the public interest:**

Our lot is surrounded by a tree line on all three non-street sides, including one side which is a wooded lot owned by the Town of Ashland. The ducks we wish to raise (Silver Appleyard) are very docile and friendly ducks. They have even been considered to make great pets!

**2. The spirit of the ordinance is observed:**

The spirit of the ordinance is observed because the ducks will always be inside our main fenced-in area and will be inside their duck house/run most of the time. Our property, for its size, is very secluded and the ducks will have no impact on the surrounding houses. The spirit of the ordinance is to ensure that the animals do not infringe on the neighbor's ability to fully utilize their property. Our neighbors will likely not even notice the addition of such a small number of ducks on our property.

**3. Substantial justice is done:**

Substantial justice would be done because we should be able to utilize our property as we see fit so long as it does not impact our neighbor's ability to use theirs. The addition of ducks to our property will have no impact on our neighbors and therefore it would be unjust to not allow us to raise them.

**4. The values of the surrounding properties are not diminished:**

The addition of such a small number of ducks and a small duck house in our backyard will have no impact on property values in the area.

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

**a(i) – No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application to that provision to the property**

**a(ii) – The proposed use is a reasonable one**

The proposed use is a reasonable use for our property because we have a property that is blocked on all non-street sides by a tree line. The proposed duck house (approximately 18 square feet) will be constructed inside our existing fence in the backyard and will include a fully enclosed run.

I do not believe that the purpose of this ordinance was to prevent all residents on smaller lots from having a small number of ducks on their property. While I understand the concerns of having animals roaming around outside of one's property and impacting how neighbors can enjoy their own lot, I do not see how our specific property applies.

**Waiver for Full Site Plan:**

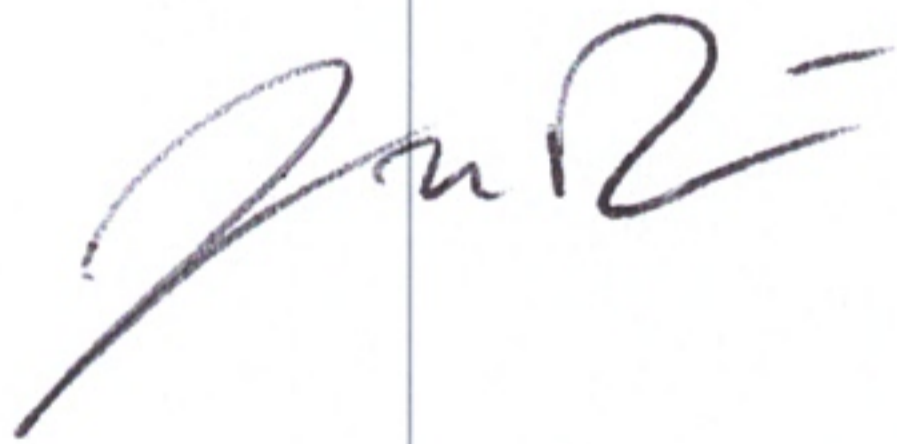
With this application, I would also request to waive a full site plan. The only metric in the Zoning Ordinance not in compliance is the lot size. A full site plan, aside from outlining the existing fence and tree lines, will not provide any additional information required to approve the variance. While there is a discrepancy in our lot size between the deed, GIS, and tax records; it ranges between 0.29 acres to 0.37 acres (12,632 and 16,117 square feet respectively). I do not believe that difference should impact the requested variance.

The Zoning Ordinance requires a maximum of 35% coverage. Even if our property were 0.29 acres, our current coverage for the house and garage is only 1,072 square feet (around 8.5% coverage). The addition of the 18 square foot duck house would still be under 9% coverage. The ordinance also requires a minimum of 10% green space. Assuming the larger size (0.39) our lot would require at least 1,612 square feet. Most of our property is green space, accounting for at least 10,000 square feet.

On the next page, I have provided a google maps image showing our backyard and the general area the ducks will stay.

Thank you for your consideration.

Sincerely,



Josh Davis

