



OFFICE OF THE PLANNING DIRECTOR

2 Main Street, PO Box 960
Amherst, NH 03031
ctiedemann@amherstnh.gov
www.amherstnh.gov
Tel. (603) 673-6041 ex. 204 Fax (603) 673-4138

APPLICATION TO THE AMHERST ZONING BOARD OF ADJUSTMENT

Date: 10/18/09 Case No: 143J Lot Number: 10-47 Fee: Paid:
Owner: James & Ellen Sickler Applicant/Agent: James & Ellen Sickler
Address: 166 Amherst Street Address: 166 Amherst Street
Amherst, NH 03031 Tel: 673-6042 Amherst, NH 03031 Tel: 673-6042
Site Location/Street: 166 Amherst Street Zoning District: Historic

Application Type: Variance [X] Special Exception

The applicant hereby requests a Variance [XX], (or) Special Exception from (or under) the provisions of Article: IV, Section: 4.10, Paragraph: 4.10.5. In order that he or she may: Construct a garage within the 100 year flood plain limit AND KEEP AN EXIST. BORN IN FLOOD PLAIN

General Instructions: A typed application must be filed in the Zoning Office, for review, no less than thirty days prior to Zoning Board of Adjustment meeting, which is held every third Tuesday of each month. Included also shall be eleven copies of the application and additional documentation; a plot plan of the lot showing the existing and proposed structures, certified by a Licensed Land Surveyor; and building plans (floor and elevations). Four copies of all the plans are to be to scale with a graphic scale shown. Eleven copies of the plans are to be reduced to 11" x 17". There shall also be a typed list of abutters and owners, including any licensed professionals noted on the plans. All listed shall have three sets of 1" x 2.5" typed gummed labels.

Note: Applications will not be processed without the fee being paid.

Fees: Application: \$ 210. All abutters are: \$ 7.00 / each.

Fee calculations: Application Fee: \$ 210 + (\$ 7.00 x 6 abut = \$ 42 ) = \$ 252 total due

Staff Comments:

I, the undersigned, hereby certify that the names listed as abutters are accurate and correct to the best of my knowledge and belief. I acknowledge that it is my responsibility to check such other sources that are available to insure that any and all persons entitled to notification receive the same, and hereby certify that I have done so.

Signature of Owner: [Signature] Date: 10/18/09

Note: If not signed by owner a letter of authorization to proceed from owner is required. (v.8.19.09)

## Supplement to Use Variance Application

Property: James and Ellen Sickler  
166 Amherst Street --- Lot 18-47  
Amherst NH, 03031

This application is to request a use variance as to build a 24' x 36' garage within the limits of the 100 year flood. The proposed building site is located within an existing circular driveway as shown in the attached plans. This is a good / usable location for the garage with the least amount of additional site work / driveway expansion and tree removal.

- 1) Granting this variance will be in the public interest because it will allow the construction of the proposed garage in a location that is well within all required setbacks, will have the least amount of effect on the existing use of the lot and will be a limited visual from surrounding properties and the street.
  - 2) Granting the variance will be consistent with the spirit of the ordinance because the proposed garage will have no effect on the flood plain itself and will be constructed in a manner consistent with the requirements laid out within the ordinance.
  - 3) The value of the surrounding properties will not be diminished. The proposed garage will be constructed in a location that has no effect on any surrounding properties, including its proximity to them as well as the visual from them.
  - 4) Substantial justice will be done because the granting of the variance will allow the construction of the proposed garage in the best and most practical location on the property with relation to other structures and the existing driveway configuration.
  - 5) There are special conditions related to this project that would create an unnecessary hardship. Any alternate locations for the proposed garage would result in considerable amounts of additional site work / tree removal and expansion of the existing driveway.
- A 1) The zoning restriction does interfere with the reasonable use of the property with relation to a substantial portion of the lot being within the limits of the 100 year flood.
- 2) There is a substantial relationship between the general purpose of the ordinance and the specific restriction on the property due to the fact that a large portion of the usable land lies within the limits of the 100 year flood.
  - 3) Granting of the variance will not injure the public or private rights of others as the proposed garage meets all other Town of Amherst/Historic District building requirements and will not impact any surrounding properties.



OFFICE OF THE PLANNING DIRECTOR – AMHERST, NH

PO Box 960, 2 Main Street  
Amherst, NH 03031-0960  
e-mail: ctiedemann@amherstnh.gov  
website: www.amherstnh.gov  
Tel. (603) 673-6041 x 204 Fax (603) 673-4138

November 18, 2009

James L. and Ellen M. Sickler  
166 Amherst Street  
Amherst, NH 03031

Dear Jim and Ellen:

The Amherst Zoning Board of Adjustment at their meeting on November 17, 2009, approved your application as presented.

A Building Permit is required for the construction of the garage and I have included a copy of part of Section 6.0 of the NHOEP Floodplain Management Handbook with certain areas outlined that are applicable to your proposed structure.

Please feel free to call or e-mail me if you have any questions.

Yours truly,

Charlie Tiedemann, Planning Director

cc: ZBA file

11/17/09

138 **CASE 1434: LOT 18-47 AMHERST ST.: Variance – James L. and Ellen M.**  
139 **Sickler, 166 Amherst St., Amherst, NH 03031 (owners), request a Variance**  
140 **from the provisions of the Amherst Zoning Ordinance Art. IV, Sec 4.10**  
141 **Flood Plain Conservation District, Para. 4.10.5 Permitted Uses, in order that**  
142 **they may construct a new garage, and keep an existing barn within the 100-**  
143 **year Flood Plain (not a permitted use). Residential/Rural Zone (Aquifer**  
144 **Conservation District Overlay)**

145  
146 Doug Kirkwood stepped down for this discussion and recused himself from  
147 voting. Alex Buchanan to vote in the absence of Doug Kirkwood.

148  
149 Jim Sickler, presented the application for a Variance for a barn on his property.  
150 Since the floods in 2006, there have been new restrictions put on the flood plain;  
151 it is a barn, not a living structure in the flood plain. He would like to build a  
152 garage adjacent to the barn within the flood plain. The water line is just about 80  
153 feet away from the 100 year flood plain. The barn and garage are in the public  
154 interest and meet required setbacks. The parcel is 4.5 acres, the new garage is  
155 not visible from the street; it is consistent with the spirit of the Ordinance, there is  
156 no effect on the flood plain; it will be built on a slab; there will be no diminished  
157 value of surrounding properties, it is a smaller garage. No hardship issues; this  
158 is in the Historic District, there is one small pine tree requiring removal.

159  
160 Robert Rowe asked for questions from the Board. There were none. Robert  
161 Rowe asked for questions or comments from abutters or interested parties.  
162 There were none.

163  
164 Doug Kirkwood stepped back up to the Board.

165  
166 **CASE 1435: LOT 18-43 BELDENS MILL LANE AND BEAVERBROOK**  
167 **CIRCLE: Variances – Antonia G. Dinkel, Trustee of the Antonia G. Dinkel**  
168 **Revocable Trust, 3 Beldens Mill Lane, Amherst NH 03031 (owner), requests**  
169 **three (3) Variances from the provision of the Amherst Zoning Ordinance:**  
170 **(1) Art. IV, Sec. 4.10 Flood Plain Conservation District, Para. 4.10.5**  
171 **Permitted Uses, in order so that she may construct a deck, porch, stairs,**  
172 **and landings within the 100-year Flood Plain (not a permitted use); (2) Art.**  
173 **IV, Sec 4.11 Wetland Conservation District Subsec. 4.11.3 Special**  
174 **Provisions, Paras. 4.11.3.3, and 4.11.3.7 in order that she may construct a**  
175 **deck, porch, stairs and landings adjacent to and within the Wetland**  
176 **Conservation District (not a permitted use); and (3) Art. IV, Sec. 4.12**  
177 **Watershed Protection District, Para. 4.12.2 Permitted Uses, in order that**  
178 **she may construct a deck, porch, stairs, and landings within the Watershed**  
179 **Protection District (not a permitted use). Residential/Rural Zone.**

180  
181 Alex Buchanan stepped down from the Board for this discussion.

182

275 True 5, Not true 0  
276 Jamie Ramsay there is no other area to place the garage on the property; Robert  
277 Rowe - true, Wil Sullivan - true, Dan Weldon - true, Doug Kirkwood - true.

278  
279 5Bb. The benefit sought by the applicant cannot be achieved by some other  
280 method reasonably feasible for the applicant to pursue, other than an Area  
281 Variance.

282 True 5, Not True 0  
283 Robert Rowe - true this is the most reasonable location for a third garage; Jamie  
284 Ramsay - true, Dan Weldon - true, Wil Sullivan - true, Doug Kirkwood - true.

285  
286 *Conditions:* Wil Sullivan asked if the applicant is required to provide a plot plan  
287 anyway. Doug Kirkwood stated yes. Dan Weldon an as-built foundation plan  
288 must be submitted, can we require that the plot plan be accurate? Doug  
289 Kirkwood this is as close as we can get to a plot plan, it is a stamped plan. It is  
290 not the Board's job to judge whether it is correct or not. Wil Sullivan - the  
291 encroachment is certified to be no more than four feet according to this plan;  
292 having bounds set can be very expensive.

293  
294 Doug Kirkwood indicated there was no request for conditions; the request for  
295 Variance has been granted.

296  
297 **Case 1434:**

298  
299 Doug Kirkwood stepped down from the Board for this decision and Robert Rowe  
300 asked that Alex Buchanan vote in the absence of Doug Kirkwood.

301  
302 *Dan Weldon moved no regional impact. Jamie Ramsey seconded. All were in*  
303 *favor. Motion passed.*

304  
305 Review the tests:

306  
307 1. Granting the Variance will be in the public interest? True 5 Not true 0  
308 Jamie Ramsey-true, it is within his right to request a garage to be built and sees  
309 no adverse affects; Dan Weldon-true; Alex Buchanan-true, public interest in flood  
310 plain is to not have a dwelling in it; a garage would not impair public interest at  
311 all, Wil Sullivan-true, Robert Rowe-true

312  
313 2. The Variance is consistent with the spirit of the Ordinance? True 5 Not true 0  
314 Wil Sullivan-true; it is in the spirit of the ordinance; Dan Weldon-true, Jamie  
315 Ramsey-true, Alex Buchanan-true, Robert Rowe-true

316  
317 3. The value of surrounding properties will not be diminished? True 5 Not true 0  
318 Dan Weldon-true, it is the addition of a garage as an improvement, not a  
319 detraction; Alex Buchanan-true; Wil Sullivan-true, Jamie Ramsey-true, Robert  
320 Rowe-true

321  
322 4. Substantial justice done? True 5 Not true 0 Alex Buchanan-true, he can use  
323 his property and there is no harm to the public, Jamie Ramsey-true, Wil Sullivan-  
324 true, Dan Weldon-true, Robert Rowe-true

325  
326 This is a use variance.

327  
328 5. Special Conditions exist such that the literal enforcement of the Ordinance  
329 results in unnecessary hardship?

330  
331 5Aa. The Zoning restriction as applied interferes with the applicant's reasonable  
332 use of the property considering its unique setting? True 5 Not true 0  
333 Alex Buchanan-true, it is a large property, the portion that is usable is in the flood  
334 plain, Wil Sullivan-true, Dan Weldon-true, Jamie Ramsey-true, Robert Rowe-true

335  
336 5Ab. No fair and substantial relationship exists between the general purpose of  
337 the Ordinance and the specific restriction on the property? True 5 Not true 0  
338 Jamie Ramsey-true, Dan Weldon-true, Wil Sullivan-true, Alex Buchanan-true,  
339 Robert Rowe-true

340  
341 5Ac. The Variance would not injure the public or private rights of others?  
342 True 5 Not true 0 Alex Buchanan-true, it will not injure the public. Alex  
343 Buchanan asked that an as-built be submitted to the Town for the existing barn.  
344 Jamie Ramsey agreed. Dan Weldon asked if that would be grandfathered since  
345 it was there before the regulations changed. Alex Buchanan said it probably is,  
346 but an as-built should be submitted. Wil Sullivan-true, Dan Weldon-true, Jamie  
347 Ramsey-true, Robert Rowe-true

348  
349 Robert Rowe indicated since all tests passed, the request is granted.

350  
351 Doug Kirkwood stepped back up to the Board.

352  
353 Case 1435:

354  
355 Alex Buchanan stepped down from the Board for this decision.

356  
357 *Discussion:* There was none.

358  
359 Doug Kirkwood indicated this variance is for relief from **Flood Plain**  
360 **Conservation District (Variance #1)** to construct the deck stairs in flood plain.

361  
362 *Jamie Ramsay moved no regional impact. Dan Weldon seconded. All were in*  
363 *favor.*

364  
365 1. Granting the Variance will be in the public interest.  
366 True 5, Not true 0