



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – City Hall, 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, October 15, 2015**
Meeting Time: **7:00 pm**

1. ATTENDANCE

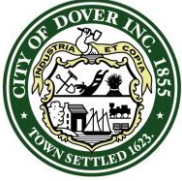
2. APPROVAL OF MEETING MINUTES OF SEPTEMBER 17, 2015

3. HEARINGS

- A. Z15-19 Owners Brian & Mary Ann Short, 3 Wentworth Terrace (Tax Map 8, Lot 32), located in the Low-Density Residential (R-20) District and Riverfront Residential Overlay (RRD) District, request a variance from **Section 170-28.1.C** of the Zoning Ordinance to permit a subdivision that would create a 43,893-square-foot lot and a 32,275-square-foot lot where 60,000-square-foot lots are required.

4. ADJOURN

Persons with questions or interested in reviewing the meeting materials are invited to visit the Planning Department located in City Hall, open Monday-Thursday from 8:30 am to 5:30 pm and Friday from 8:30 am to 4:00 pm. The meeting materials are also available on-line at www.dover.nh.gov. Follow us on Twitter @DoverNHPlanning and find us on Facebook at <https://www.facebook.com/DoverNHPlanning>.



**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – City Hall
288 Central Avenue, Dover NH 03820
Meeting Date: **Thursday, September 17, 2015**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), Otis Perry (Vice-Chair), Frank Landford, Chris Prior

Members Not Present: Bob Hall, George Reagan (Alternate), Arianna Adams (Alternate)

Staff Present: Steve Bird (City Planner), Elena Piekut (Assistant City Planner), Tracy Smith (Recording Secretary)

The Chair called the meeting to order at 7:00 p.m. He opened the meeting, introduced the Board and staff members to the audience, and described the process used to hear cases.

S.Reid stated there is a three person vote required to approve a variance, and gave the applicants the option to withdraw their application.

S.Reid stated item A., case Z15-18 for Brian Fischer, would not be heard due to the request of the applicant's Attorney.

2. APPROVAL OF MEETING MINUTES OF AUGUST 20, 2015

S.Reid addressed the email from B.Hall with his comments on the Meeting Minutes for August 20, 2105. The comments were in reference to the Approval of the Meeting Minutes in section 2. The second paragraph should mention that none of the applicants opted to withdraw, and in the third paragraph, it was O.Perry who responded to the citizen not B.Hall. Copies of the email were distributed to the Board members.

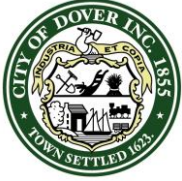
F.Landford clarified that the comment in the third paragraph also stated that four members needed to be present, and should be corrected to three members must be present to grant the variance.

Motion: O.Perry made a motion to approve the August 20, 2015 Regular Meeting Minutes with the changes submitted by B.Hall and F.Landford. Seconded by F.Landford. Vote U/A

3. HEARINGS

- A. Z15-18 Owner Brian Fischer, 432 Central Avenue, appeals the administrative decision of Building Official Thomas L. Clark to issue three Certificates of Occupancy (No. C 14-207 '15) to Riparia at 100 First Street LLC, 100 First Street (Tax Map 6, Lot 3) on the grounds that issuance of the Certificate of Occupancy violates **Section 170-44.I (f)** of the Zoning Ordinance.
- B. Z15-19 Owners Brian & Mary Ann Short, 3 Wentworth Terrace (Tax Map 8, Lot 32), located in the Low-Density Residential (R-20) District and Riverfront Residential Overlay (RRD) District, request a variance from Section 170-28.1.C of the Zoning Ordinance to permit a subdivision that would create a 43,893-square-foot lot and a 32,275-square-foot lot where 60,000-square-foot lots are required.

Attorney Bernie Pelech, represented the applicant and asked that their case be deferred to next month when more Board members are present.



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ZONING BOARD OF ADJUSTMENT - MINUTES

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S.Bird stated the procedure to hear the case next month.

Motion: O.Perry made a motion to continue the case next month and not require an abutter notice. Seconded by F.Landford with an amendment to require an abutter notice after confirming there was an abutter present who expressed the abutters should be notified, and the applicant was willing to pay for the additional notice. Vote U/A

- C. Z15-20 Owner Ardena Plourde, 42 Constitution Way (Tax Map K, Lot 21-21), located in the Rural Residential (R-40) District, requests a variance from **Section 126-5.F** of the Manufactured Home Parks Ordinance to permit the construction of a garage six feet from the side lot line, where 12 feet is required

Ardena Plourde presented her application and stated the garage she requested has to be freestanding due to the nature of the dwelling and cannot be attached which requires it be 10 ft. from the house and 6 ft. from the lot line. She stated she spoke to her neighbors and no one has objected, and confirmed their locations with S.Reid.

F.Landford confirmed with A. Plourde her lot number is 21, and that she owns the home, not the lot which is owned by Dover Brook Park.

C.Prior stated other dwellings in that area have been granted relief for similar circumstances.

Public Hearing Opened. Nobody Spoke.

STAFF RECOMMENDATION:

The Planning Department recommends that the Board grant the request for a variance.

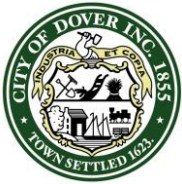
F.Landford confirmed with A.Plourde that Park management is aware of her intent.

Public Hearing Closed

Motion: O.Perry made a motion to grant the variance with the conditions as suggested by the Planning Department, and that the applicant has met all the legal requirements of the variance. Seconded by C.Prior who confirmed the location of the garage from the lot line as noted in the application. Vote U/A

4. ADJOURN

Motion: O.Perry made a motion to adjourn at 7:12 p.m. Seconded by F.Landford. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers – City Hall, 288 Central Avenue, Dover, NH
Meeting Date:	Thursday, October 15, 2015
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance from the minimum lot size requirement of 170-28.1.C in the Riverfront Residential Overlay District. They propose two lots of 43,893 sf and 32,275 sf where 60,000 sf is required.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-B

ZONING DISTRICT: R-20, RRD

FILE: Z15-19

APPLICANT: Brian & Mary Ann Short

OWNERS: Brian & Mary Ann Short

LOCATION: 3 Wentworth Terrace (Tax Map 8, Lot 32)

ACREAGE: 1.75 acres

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling(s)

SURROUNDING LAND USE:
Residential, Highway

PREVIOUS ZBA ACTION: None
(Lot Line Adjustment P12-08)

ATTACHMENTS: Application, 2012
Lot Line Adjustment Plan

**PLANNING BOARD APPROVAL
REQUIRED:** Yes, for subdivision

STAFF RECOMMENDATION: The Planning Department does not support the variance request.

Summary of Appeal and Background

This case was continued from the September 17th meeting at the applicant's request.

Brian Short and Mary Ann Hemming Short own two lots at the end of Wentworth Terrace. One of them (Lot 32, 76,168 square feet) is divided by Wentworth Terrace, leaving one side with 43,893 square feet between Wentworth Terrace and the Piscataqua River, and the other side with 32,375 square feet between Wentworth Terrace and Hilton Park Road. There is a house on the water side, and a barn on the other half. Wentworth Terrace is a public street that ends at the other lot the Shorts own, Lot 31.

The Shorts request a variance from Section 170-28.1.C, which requires that **the minimum lot size in a Riverfront Residential Overlay District is three times the minimum lot size in the underlying district.** Therefore they request a variance from 60,000 square feet minimum to a 43,893-square-foot lot and a 32,275-square-foot lot.

Reason for Staff Recommendation

The effective division of Lot 32 by Wentworth Terrace is a special condition of the lot. However, although Wentworth Terrace is a public street, it is not a through way and terminates at Lots 32 and 31.

The lot line adjustment approved by the Planning Board in 2012—where 22,024 square feet of Lot 31 was conveyed to Lot 32—made Lot 32 conforming by increasing its area to 76,168 square feet. Now, the same applicant requests a variance to create two nonconforming lots. The purpose of the Riverfront Residential Overlay District is to comply with State law (Chapter 483-B) and to protect shoreland and public waters by means of minimum lot sizes and minimum shoreland frontages.

Staff opinion is that the hardship is not sufficient to justify a subdivision that creates new nonconforming lots, with the associated impact on shoreland, especially where conformity was recently achieved at the applicant's request.

Recommendation

Staff recommends that the Board deny the request for variance.

**Property Information**

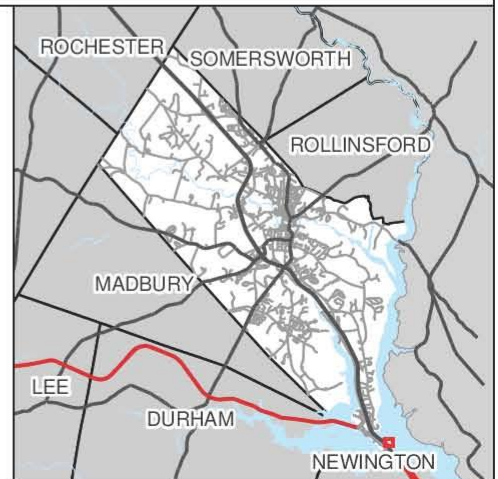
Property ID 08032-000000
Location 3 WENTWORTH TR
Owner SHORT BRIAN D &
SHORT MARY ANN



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

The City makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated January 1, 2015





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>Z15-19</u>	Date Received:	<u>AUG 31 2015</u>
	Amount Paid:	\$ <u>236.00</u> <u>OK # 24555</u>	Time Received:	<u>Dover, New Hampshire</u>

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Brian D. Shout + Mary Ann Hemming Shout Phone # _____

Address of Applicant: 1 Westworth Terrace, Dover NH

E-Mail Address: _____

PROPERTY OWNER (if different from applicant): Same as Applicant

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 3 Westworth Terrace

Brief Directions: Take Right off of Hilton Drive, after Hilton Park, then Turn Right.

Zoning District: R-20 ^{Riverfront Res. Overlay} Assessor's Map # 8-1 Lot(s) # 32

TYPE OF APPEAL: (Please check one)

- | | |
|--|---|
| ☒ Variance | from Section <u>170-38.1C</u> of the Zoning Ordinance |
| ☐ Physical Disability Variance (RSA 674:33-V) | from Section _____ of the Zoning Ordinance |
| ☐ Special Exception | per Section _____ of the Zoning Ordinance |
| ☐ Appeal of Administrative Decision | regarding Section _____ of the Zoning Ordinance |
| ☐ Equitable Waiver | per Section _____ of the Zoning Ordinance |

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

Applicant wishes to subdivide the lot, presently located on both sides of Westworth Terrace into 2 lots, one lot with a residence upon it would contain 43,893^{sq} ft w 300' of frontage on the Piscataqua River and 290' of frontage on Westworth Terrace. The second lot with a barn upon it would have 32,275^{sq} ft of lot area with approx. 350' of frontage on Westworth Terrace.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-28.1C of the Zoning Ordinance to permit:

SUBDIVISION OF AN EXISTING LOT IN THE R-20 DISTRICT INTO 2
LOTS; LOT A HAVING 43,893^{sq} AND 300+ FT OF FRONTAGE ON WENTWORTH TERRACE
AND LOT B HAVING 32,275^{sq} AND 350+ FT OF FRONTAGE ON WENTWORTH TERRACE
THE LOT LIES WITHIN THE RIVERFRONT RESIDENTIAL OVERLAY AND
THUS 60,000^{sq} OF LOT AREA IS REQUIRED

B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

Please demonstrate compliance with the following:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

GRANTING THE VARIANCE WILL NOT SUBSTANTIALLY ALTER THE
CHARACTERISTICS OF THE NEIGHBORHOOD AS EACH PROPOSED
LOT IS ON OPPOSITE SIDES OF WENTWORTH TERRACE AND
EACH HAS AN EXISTING STRUCTURE THEREON.

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

THE GRANTING OF THE VARIANCE WOULD NOT THREATEN PUBLIC HEALTH,
SAFETY OR WELFARE, NOR WOULD THE ESSENTIAL CHARACTERISTICS
OF THE NEIGHBORHOOD BE SUBSTANTIALLY ALTERED.

3. Granting the variance would do substantial justice because:

THE HARDSHIP UPON THE OWNER IS NOT OUTWEIGHED
BY ANY BENEFIT TO THE GENERAL PUBLIC.

4. The value of surrounding property will not be diminished because:

THE SUBDIVISION WILL NOT AFFECT THE VALUES OF SURROUNDING PROPERTIES AS THE STRUCTURES UPON EACH PROPOSED LOT PRESENTLY EXIST

NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

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

(i) The following special conditions of the property distinguish it from other properties in the area:

THE PROPERTY HAS SPECIAL CONDITIONS BECAUSE THE LOT IS PRESENTLY BISECTED BY WESTWORTH TERRACE. THE FACT THAT A PUBLIC STREET RUNS THROUGH THE MIDDLE OF THE LOT CREATES AN UNNECESSARY HARDSHIP. THE PROPOSED LOTS ARE LARGER THAN ALL SURROUNDING LOTS WITH THE EXCEPTION OF WESTWORTH TERRACE

and

(ii) No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:

THE PURPOSES OF THE RIVERFRONT RESIDENTIAL OVERLAY IS TO PREVENT UNCOORDINATED, UNPLANNED DECEMBER DEVELOPMENT OF SHORELANDS WHICH COULD SIGNIFICANTLY IMPACT PUBLIC WATERS. THE PROPOSED TWO LOTS ARE ALREADY DEVELOPED AND ONE OF THE LOTS HAS NO SHOREFRONT WHATSOEVER. THUS THE PURPOSE OF THE ORDINANCE IS MAINTAINED AND THERE IS NO FAIR AND SUBSTANTIAL RELATIONSHIP BETWEEN THE ORDINANCE AS APPLIED TO THIS PARCEL

and

(iii) The proposed use is a reasonable one because:

THE PROPERTY IS IN AN R-70 ZONE AND BOTH PARCELS MEET THE CRITERIA FOR THAT ZONE, THE USE IS ALLOWED AND THE ROAD DIVIDES THE LOT IN HALF PRESENTLY

OR

5B. If the criteria in subparagraph 5A above are not established, explain how, 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 FACT THAT THE LOT IS BISECTED BY THE PUBLIC STREET, DIFFERENTIATES THIS LOT FROM ALL OTHERS IN THE AREA.

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

IMPORTANT

PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.
FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED.

Signature of Applicant*

Signature of Owner*

*Both Signatures Required

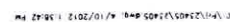
AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner:

Date:

8-26-15



ABUTTER LIST

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

Pursuant to RSA 676:7, the State Law of New Hampshire, the City of Dover is required to notify the applicant and every abutter of the public hearing by certified mail. The cost of required publication or posting of notice, and the cost of mailing said notices, shall be paid by the applicant.

"Abutter" is defined in Chapter 170, Dover Zoning Ordinance, as:

The owner of record of a parcel of land located in New Hampshire and adjoins or is directly within **two hundred (200) feet** (including land across the street or waterway) of the proposed site under consideration by the Board.

In the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. Additionally, the individual owners of units within the association, which are located within two hundred (200) feet of the common property line shall be notified only by first class mail.

PLEASE NOTE: abutter ownership information for lots located in Dover, shall be obtained through the City's Tax Assessment Office.

[illegible]

Kevin S. Joyce, Trustee
Martin Alintuck, Trustee
44 Brookside Drive
Kingston, NH 03848

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Kingston, NH 03848

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Martin Alintuck, Trustee
44 Brookside Drive
Kingston, NH 03848

Susan A. McCooey Drady
9 Wentworth Terrace
Dover, NH 03820

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9 Wentworth Terrace
Dover, NH 03820

Alexis Makris, Trustee
11 Wentworth Terrace
Dover, NH 03820

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Dover, NH 03820

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11 Wentworth Terrace
Dover, NH 03820

State of New Hampshire
John O. Morton Building
Concord, NH 03301

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Dover, NH 03820

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Brian D. and Mary Ann Short
1 Wentworth Terrace
Dover, NH 03820

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Brian D. and Mary Ann Short
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Susan A. McCooey Drady
9 Wentworth Terrace
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