

CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, September 21, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF AUGUST 17, 2017

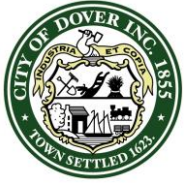
3. HEARINGS

- A. Z17-16 Applicant/Owners Hadley and Shane Moores, 33 Littleworth Road (Tax Map G, Lot 6-D), located in the Assembly and Office (I-4) Zoning District, request a variance from **Section 170-12.B** of the Zoning Ordinance to permit reduced setbacks, specifically those applied in the Rural Restricted Industrial (I-2) Zoning District, where the I-4 Zoning District requires a minimum setback of 75 feet from all property lines. For both principal and accessory buildings, a minimum front setback of 35 feet, and a minimum side and rear setback of 10 feet would be permitted if the variance is granted.
- B. Z17-20 Applicant/Owner Jeffrey & Sharon Warshauer, 3 Wentworth Terrace (Tax Map 8, Lot 32-1), located in the Low Density Residential (R-20) Zoning District, request a variance from **Section 170-12.B** of the Zoning Ordinance to permit a front setback of 48.77 feet, where a build-to line of 20 feet minimum, 35 feet maximum is required.

4. OTHER BUSINESS

5. 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 online 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: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, August 17, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Chris Prior (Chair), Bob Hall (Vice Chair), Frank Landford, Otis Perry, Nicholas Couturier (Alternate)

Members Not Present: George Reagan (Alternate)

Staff Present: Elena Piekut (Assistant City Planner)

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

2. APPROVAL OF MEETING MINUTES OF JULY 20, 2017

Motion: Otis Perry moved to approve the July 20, 2017 meeting minutes as submitted. Seconded by Frank Landford.
Vote: U/A

3. HEARINGS

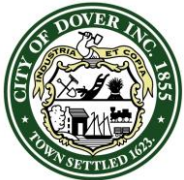
- A. Z17-15 Applicant/Owner D.R. Lemieux Builders, Inc., 53 Spur Road (Tax Map L, Lot 14-N), located in the Low Density Residential (R-20) Zoning District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a side setback of 11 feet where a minimum of 20 feet is required.

Otis Perry recused himself. The Applicant elected to proceed with a four-member board.

F.X. Bruton, Esq. of Bruton & Berube and David Lemieux of D.R. Lemieux Builders, Inc. represented the Applicant and provided a background and overview of the request. Chair Chris Prior asked for clarification that the Applicant is requesting a variance to permit the foundation that is already in place to be 11 feet from the side property line and Mr. Bruton confirmed that is the case.

F.X. Bruton discussed the distance from the foundation to existing abutting structures and the existing right of way over the south side of the property. He also discussed the criteria for a variance, stating that: the variance would not result in a substantial change to the neighborhood; the variance would be consistent with the spirit of the ordinance by providing adequate spacing between homes; the abutter to the north does not object and is considering the Applicant's offer of evergreen screening; granting the variance would do substantial justice; the variance would not result in the diminution of property values; and the narrowness of the lot, the shoreland protection area, and the presence of a driveway right of way present a hardship.

Bob Hall asked why the Applicant had not completed a footing certification prior to further construction. David Lemieux stated that he was not required to complete a footing certification and only certified the foundation location because of the presence of State-protected shoreland area within 250 feet of the river. He stated that Building Official James Maxfield did not require him to get a foundation certification at that time. Staff confirmed for Mr. Hall that the building permit states "footing location must be certified prior to further construction" and that footing and foundation certifications are required for all new structures. David Lemieux stated he ceased construction upon obtaining the foundation certification.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, August 17, 2017**
Meeting Time: **7:00 pm**

F.X. Bruton stated he believes it is reasonable to grant a variance encroach on the setback to stay away from the driveway, even if the foundation mistake had not been made.

Bob Hall asked whether there was a clear spot to put the foundation in compliance with dimensional regulations. F.X. Bruton said that there was, but noted that the foundation certification does not depict the driveway and that they would be able to seek relief based on the presence of the driveway. Mr. Hall reiterated that the request is not being made “before-the-fact.” Atty. Bruton stated that the Applicant has been up-front about the mistake and reminded the Board that they did not approve the equitable waiver request primarily because the foundation was not considered by them or staff to be a “substantially complete structure.” He reiterated that the variance request could be made if the foundation did not exist.

Bob Hall noted that the abutter mentioned has not made any comment to the Board. Atty. Bruton suggested that the abutter’s lack of objections despite multiple notices results in a reasonable conclusion that they do not oppose the variance.

Public Hearing opened.

Michael Garofano, 258 Dover Point Road, asked whether the hearing is considered a *de novo* hearing. Chair Chris Prior said it is not and that it is a request for a variance, where the Applicant’s previous request was for an equitable waiver. Mr. Garofano asked whether the Board is able to consider information from the previous case, and Chair Prior suggested it is unavoidable to forget evidence presented in the previous case despite it being a new hearing. He noted that the decision requires determinations on different criteria than the previous case. Mr. Garofano stated his opinion that an abutter’s opinion should be received in writing if not in person.

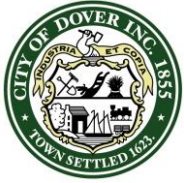
STAFF RECOMMENDATION:

Assistant City Planner Elena Piekut stated that the Planning Department does not oppose the request and that the constraints presented by the shoreland protection area, right of way, and build-to line have limited the area in which the structure could be placed.

Public Hearing closed.

Frank Landford made a motion to grant the variance, finding that all of the variance criteria have been met. Nick Couturier seconded. Bob Hall stated his strong disagreement because multiple criteria have not been met, though there was a clear location to place the structure, the abutter has not provided testimony, and the intent of the Zoning Ordinance is to provide sufficient clearance between possible structures on lots regardless of the current distances from adjacent structures. Chair Prior stated that requiring abutters to speak to a case is not reasonable considering they are properly notified and provided several methods to communicate to the Board. He added that the driveway requires the Board to provide some relief. Vote: 3-1, Bob Hall opposed.

- B. Z17-16 Applicant/Owners Hadley and Shane Moores, 33 Littleworth Road (Tax Map G, Lot 6-D), located in the Assembly and Office (I-4) Zoning District, request a variance from **Section 170-12.B** of the Zoning Ordinance to permit reduced setbacks where 75 feet is required from all property lines. The proposed buildings’ distance from side property lines ranges from 17 feet to 42 feet.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, August 17, 2017**
Meeting Time: **7:00 pm**

Abigail Karoutas, Esq. represented the Applicant and provided an overview of the property and variance request. She explained that the application has been amended to request a blanket variance to permit all of the setbacks for the Restricted Industrial (I-2) Zoning District to apply to this property. She further explained that an agreement has been reached with the neighbors, the Dunphys, to keep the the proposed structure at least 25 feet from the side property line, though the submitted plan shows approximately 17 feet. The Applicant has also agreed to install an eight-foot fence on that side of the property. Atty. Karoutas explained the nature of the use, structure, and that the property was previously zoned I-2.

Frank Landford asked for clarification of proposed structures and their uses.

Atty. Karoutas discussed the criteria for a variance as they pertain to the proposal and provided the reasons the Applicant's propose the construction on the plan submitted.

Public hearing opened.

Mike Dunphy, 37 Littleworth Road, noted that he is trying to sell his house and asked for clarification about the Applicant's proposal to establish a 25-foot setback from their mutual property line. Atty. Karoutas confirmed that the intent is that the closest corner of the structure will be no closer to the property line than 25 feet, where the plan included in the application shows approximately 17 feet.

Chair Chris Prior asked staff whether the notice sent to abutters was adequate to represent the actual request before the Board, and Assistant City Planner Elena Piekut confirmed that only the language on the agenda was shared with Abutters and that the concern that the plan differs from the notice is valid. Atty. Karoutas suggested that the Board table the item and re-notice abutters with a more clear description of the request and revised plan.

Otis Perry moved to table the application. Frank Landford seconded. Vote: U/A

- C. Z17-18 Applicant/Owner Saint Mary Academy, 222 Central Avenue (Tax Map 9, Lot 98), located in the Central Business District – General sub-district, requests a variance from **Section 170-32.A** of the Zoning Ordinance to permit the installation of a new freestanding sign where freestanding signs are not permitted.

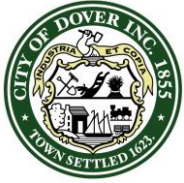
Conor Wade represented the Applicant and explained that he plans to replace the sign at Saint Mary Academy as his Eagle Scout project through Boy Scout Troop 168. Mr. Wade shared a rendering of the proposed sign. He explained that the plastic posts for the existing sign are in poor condition and cannot be maintained to support a new sign, and that the new sign, in a slightly different location, will include granite posts.

Frank Landford asked how the proposed sign compares in size and distance from the sidewalk. Conor Wade responded that the proposed sign would be slightly wider, the same height, and three to four feet from the sidewalk.

Public Hearing opened.

Mary McKiernan, Assistant Principal of Saint Mary Academy, expressed support for the variance request.

Assistant City Planner Elena Piekut stated that the Planning Department supports the variance request and noted that the existing sign could be replaced if the posts were in a condition to be reused. Otis Perry asked whether impact on



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, August 17, 2017**
Meeting Time: **7:00 pm**

sight distance would be considered and Ms. Piekut stated that the Zoning Ordinances prevents a sign from impeding vision within 30 feet of a street corner.

Otis Perry moved to approve the variance request, finding that the criteria have been met. Bob Hall seconded. Vote: U/A

- D. Z17-19 Applicant Community Action Partnership of Strafford County and Owner County of Strafford, New Hampshire, 262 County Farm Road (Tax Map C, Lot 4), located in the Rural Residential (R-40) Zoning District, requests a special exception per **Section 170-12.A** of the Zoning Ordinance to permit a 24-unit congregate care facility.

Otis Perry recused himself and left the meeting. The Applicant elected to proceed with a four-member board.

Chris Wyskiel, Esq., represented the Applicant. Eric Borrin of Community Action Partnership was also present. Atty. Wyskiel provided an overview of the proposed project, distributed a traffic analysis, and addressed how the proposal meets the specific and general criteria required for the Board to grant a special exception.

Frank Landford asked about the plan to connect circulation with the existing congregate care facility. Eric Borrin explained that the proposed plan will create a loop that is preferred by the emergency services and the COAST bus.

Atty. Wyskiel presented the results of the traffic study, which predicts an increase of four or fewer peak hour trips. He explained how the density requirement is met and provided a copy of the note to explain this on the plan. He noted that a portion of the parking will be provided underground and the rest is screened from residential uses by great distance, other buildings, and existing vegetation.

Public Hearing opened.

Suzanne Medbery, 3 Covered Bridge Lane, asked to see the plan, how the circulation is created, and how the road is to be developed and Atty. Wyskiel showed her the plan. Chair Chris Prior noted that the plan may change after technical review and site plan review.

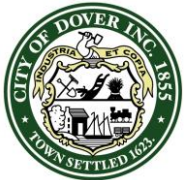
Don Medbery, 3 Covered Bridge Lane, expressed his concern that conservation land is being consumed by development and that it should be preserved for people.

Phil Gustafson, 9 Covered Bridge Lane, said he was unsure whether to oppose the project or not and expressed concern for the many pedestrians in the area and for the loss of conservation land.

Frank Landford explained that conservation land is not being affected by the project and pedestrian access will be preserved.

Mike Garofano, 258 Dover Point Road, asked how much parking is providing for the building. Chair Prior explained that the number of spaces provided is not within the purview of the Zoning Board of Adjustment and Assistant City Planner Piekut stated that the calculation for the use will result in a maximum number of permitted spaces.

Atty. Wyskiel reiterated that conservation land and pedestrian access over the bridge will not be impacted, and parking will be reviewed during the site plan approval process.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, August 17, 2017**
Meeting Time: **7:00 pm**

Assistant City Planner Elena Piekut stated that the Planning Department supports granting the special exception as it finds the specific and general criteria are met by the proposal.

Public Hearing closed.

Frank Landford moved to grant the special exception. Bob Hall seconded. Vote: U/A

4. OTHER BUSINESS

Chair Chris Prior shared Sam Reid's resignation due to his role as the President of Southeast Land Trust.

5. ADJOURN

Frank Landford moved to adjourn at 8:33 p.m. Bob Hall seconded. Vote: U/A

DRAFT



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type: Regular Meeting
Meeting Location: McConnell Center Room 306 – 61 Locust St. Dover, NH 03820
Meeting Date: Thursday, September 21, 2017
Meeting Time: 7:00 pm

INTENT: The Applicant requests a variance to permit reduced setbacks by applying the dimensional regulations for the I-2 rather than the I-4.

UNITS PROPOSED: None

AGENDA ITEM #: 3-A

ZONING DISTRICT: Assembly and Office (I-4)

FILE: Z17-16

APPLICANT/OWNER: Hadley & Shane Moores

LOCATION: 33 Littleworth Road
(Tax Map G, Lot 6-D)

ACREAGE: 2.36 acres (102,800 square feet)

EXISTING LAND USE:
Warehouse/Office

PROPOSED LAND USE: Same

SURROUNDING LAND USE:
Warehouse, office, manufacturing, single-family dwellings

PREVIOUS ZBA ACTION:
None

PLANNING BOARD APPROVAL REQUIRED: Technical Review Committee approval at minimum. Site plan review likely, dependent on final building and parking plans.

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:
Staff does not oppose the variance.

SUMMARY OF APPEAL AND BACKGROUND

The property is located on the north side of Littleworth Road and is home to Moores Crane Rental. The existing, 2,880-square-foot metal structure was built in 1970. The property was rezoned from Rural Restricted Industrial (I-2) to a less intensive industrial zone, Assembly and Office (I-4), in 2003. I-4 requires a larger minimum lot size and greater setbacks from property lines. The Applicant seeks a variance from side setback requirements to construct an addition (in order to garage cranes) and a freestanding, 1,680-square-foot office building. The majority of the property is currently cleared, with vehicles parked on a gravel/dirt surface.

The property is on the edge of the I-4 Zoning District, with single-family dwellings in the Low Density Residential (R-20) to the west and industrial uses in the I-2 across Littleworth Road to the south. A large manufacturing facility is located behind Moores Crane, and nonconforming single-family dwellings, also in the I-4, are located directly south and southeast of the property (35 Littleworth and 29 Littleworth).

REASON FOR STAFF RECOMMENDATION

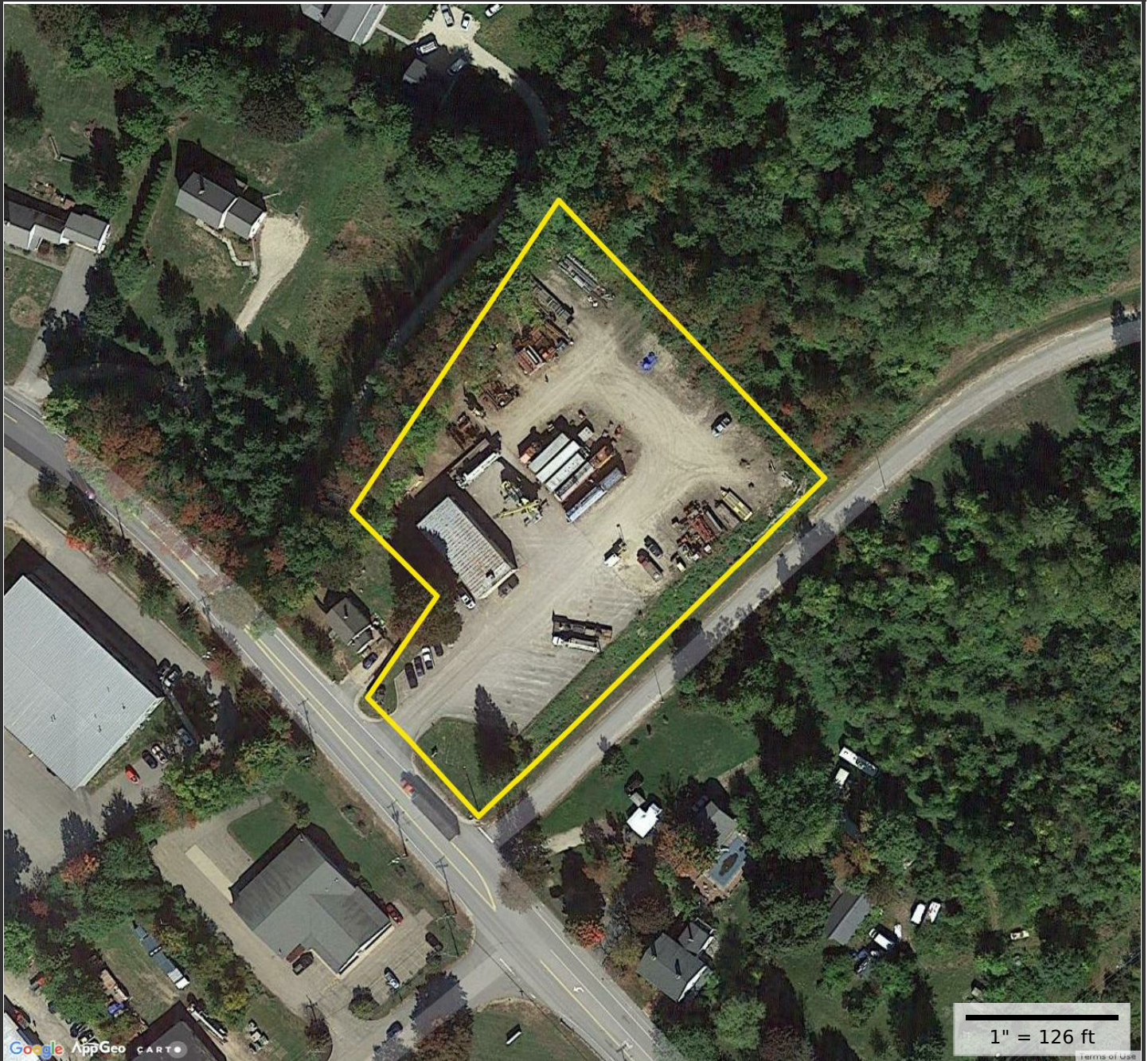
This lot is less than half of the five-acre minimum lot size in the I-4. The existing structure is nonconforming to the 75-foot setback from the lot lines shared with 35 and 37 Littleworth Road. The use is reasonable and the size and shape of the lot, as well as the placement of the existing building upon it, present a hardship. The Board should accept testimony and make a finding as to whether the variance diminishes the value of surrounding properties.

RECOMMENDATION

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff does not oppose the request and suggests the following conditions:

- 1) The current Rural Restricted Industrial (I-2) Zoning District setbacks, as follows, shall apply to all future development on Tax Map G, Lot 6-D, with the exception of the side yard abutting Tax Map G, Lot 28-1D:

Principal Building:	Outbuilding/Accessory Use:
Front: 35 feet	Front: 35 feet
Abut a Street: 35 feet	Abut a Street: 35 feet
Side: 10 feet	Side: 10 feet
Rear: 10 feet	Rear: 10 feet
- 2) The side yard setback for the portion of Tax Map G, Lot 6-D abutting Tax Map G, Lot 28-1D, shall be a minimum of 25 feet.
- 3) The Applicant shall plant and maintain six-to-eight-foot evergreens between the proposed building and Tax Map G, Lot 28-1D, as depicted on the plan.
- 4) The plan shall be revised with a reference to this decision and a note and depiction of the setback requirements described in conditions 1 and 2.

**Property Information**

Property ID G0006-D00000
Location 33 LITTLEWORTH RD
Owner MOORES HADLEY S &



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

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

Parcels updated 6/13/2017
Properties updated 07/13/2017



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	McConnell Center Room 306 – 61 Locust St. Dover, NH 03820
Meeting Date:	Thursday, September 21, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a front setback of approximately 48.77 feet where a build-to-line of 20 feet minimum, 35 feet maximum is required.

UNITS PROPOSED: None

AGENDA ITEM #: 3-B

ZONING DISTRICT: Low Density Residential (R-20)

FILE: Z17-20

APPLICANT/OWNER: Jeffrey & Sharon Warshauer

LOCATION: 3 Wentworth Terrace (Tax Map 8, Lot 32-1)

ACREAGE: 1.02 acre (44,431 square feet)

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Same

SURROUNDING LAND USE: Single-family dwellings

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Conditional Use Permit

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION: Staff does not oppose the variance.

SUMMARY OF APPEAL AND BACKGROUND

The property is located on the north side of Wentworth Terrace, the second-to-last home on the street, on the Piscataqua River. The existing one-story home was built in 1928. The Applicant intends to demolish the structure and build a new single-family dwelling in a similar location, farther from the river and closer to Wentworth Terrace.

REASON FOR STAFF RECOMMENDATION

The proposed location of the home is more conforming than the existing condition. The intent of the build-to line in the R-20 Zoning District is to create continuity along streets. Wentworth Terrace is an old and unique area, and the proposed placement of the house is consistent with the homes on either side of it. The deviation from the 35-foot maximum build-to line is relatively minor. Granting the variance is unlikely to have any negative effect on property values or be otherwise injurious to the public. The use is reasonable. Replacing the house in the same general location is also less impactful to the Conservation District and Piscataqua River.

RECOMMENDATION

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff does not oppose the request.

**Property Information**

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



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

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

Parcels updated 6/13/2017
Properties updated 09/13/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

RECEIVED
Planning Office

Office Use Only

Case #:

217-20

Date Received:

AUG 31 2017

Amount Paid:

\$ 238.00

Time Received:

Dover, New Hampshire

OK # 138

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Jeffrey & Sharon Warshauer Phone # _____

Address of Applicant: 34 Heath Drive, Newfields, NH 03856

E-Mail Address: _____

PROPERTY OWNER (if different from applicant): Same

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 3 Wentworth Terrace, Unit 1, Dover, NH

Brief Directions: located off of Hilton Drive

Zoning District: R-20 Assessor's Map # 8 Lot(s) # 32-1

TYPE OF APPEAL: (Please check one)

☒ Variance	from Section 170-12, A & B 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:

The applicant intends to remove the existing house and build a new house that sits closer to the roadway.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-12, A & B of the Zoning Ordinance to permit:

See attached narrative.

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:

See attached narrative.

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

See attached narrative.

3. Granting the variance would do substantial justice because:

See attached narrative.

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

See attached narrative.

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:

See attached narrative.

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:

See attached narrative.

and

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

See attached narrative.

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:

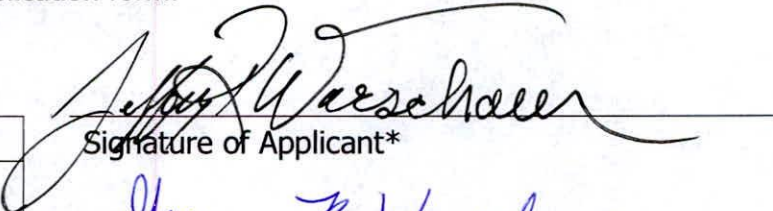
SIGNATURE PAGE

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*

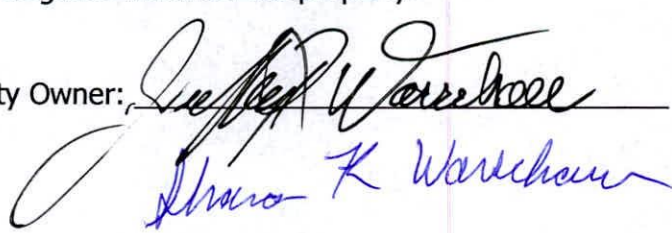
*Both Signatures Required

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:



8-30-17

A. Variance Requested

A variance is requested from Section(s) 170-12. A + B of the Zoning Ordinance to permit:

Allowing a foundation and single family residence to be built with a front yard setback of 48.77 feet where a build-to-line of 35 feet is required.

The property is located at 3 Wentworth Terrace, at the end of Dover Point, along the Pomeroy Cove portion of the Piscataqua River. The property is located in the R-20 zone, and currently contains a single family house that is located 71.58' from the roadway. The property is unique in that it is located on a dirt roadway, and is the second to last house on the dirt roadway, leading to a dead-end. As such, the only traffic along the dirt road is to the remaining house on Dover Point.

The Applicants/Owners intend to remove the existing house and build a house that is conforming to all zoning requirements, except that it will be 48.77 feet from the roadway, where there is a minimum build-to-line of 35 feet. Thus, the proposed house will be 13.77 feet short of the 35 foot build-to-line. As a result of such a move, the proposed house will be 22.81 feet closer to the roadway than the current house.

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:

The public interest is affected if the proposed variance would constitute a fundamental change in the neighborhood or if there would be a substantial impact on health or safety. Residential use is a permitted use in this zone. Many of the other waterfront residences in this neighborhood are constructed closer to the water, and thus, further away than the new 35 foot build-to-line restriction. Allowing a home to be built as proposed, being 13.77 feet away from the 35 foot build-to-line will not change the fundamental character of this neighborhood and would not have a substantial impact on health or safety, particularly when the proposed house will be 22.81 feet closer to the build-to-line than the existing house.

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

The Applicants respectfully submit that if the variance was granted, the spirit of the ordinance would be observed as the use in question is suitable, considering the configuration and location of the lot along a dirt roadway, where little traffic will exist, and given the existing setbacks of the surrounding properties. In addition, by allowing the location of the single-family residence as depicted on the Plan, the purpose of the "build-to-line" requirement will be preserved, as the proposal represents a context sensitive design, with the new house being located closer to the build-to-line than the existing house. To the extent a build-to-line

requirement is to preserve aesthetics within a community, granting the variance would not diminish the aesthetic nature of the new construction in light of the location along a dead-end and dirt roadway. Further, the proposed use is consistent with the purpose behind the R-20 District, which mainly is to provide for conventional single-family neighborhoods on lots not less than 20,000 square feet. It is unreasonable to require houses to be located so close Wentworth Terrace when no other residential uses or neighborhoods are located as such.

To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance's basic zoning objectives. It is respectfully submitted, that given the reasons set forth above, the granting of the variance will be consistent, and will not conflict in any manner, with the ordinance's basic zoning objectives.

3. Granting the variance would do substantial justice because:

The New Hampshire Supreme Court has held that an injustice occurs when the injury to the Applicants resulting from denying the variance would be greater than any benefit that would accrue to the public if the variance is denied. In this case, similar uses already exist nearby. Denying the variance will not confer a benefit on the general public since nothing will be gained by requiring construction to the build-to-line, particularly given compliance with the Shoreland setbacks. Denying the variance would be a detriment to the Applicants because that denial would prevent the Applicants from the reasonable use of their property.

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

The value of adjacent properties will not be affected because the residential use is a permitted use and the new home to be constructed will be a significant distance from adjacent dwellings and will be screened by existing vegetation. As a result of this proposed new construction, the house will actually be moved 22.81 feet closer to the road, and away from the Piscataqua River.

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of buildings to be located upon the Applicants' property. In this instance, the location of the house, whether located adjacent to Wentworth Terrace, or further away from the 35 build-to-line, as sought by the Applicants, will have no negative affect upon any abutter.

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 Applicants' lot is unique as it is located on a dirt, dead-end, road with virtually no public traffic. Requiring the house to be located an additional 13.77 feet closer to the dirt road will result in no benefit in supporting the purpose of the build-to-line requirement.

(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:

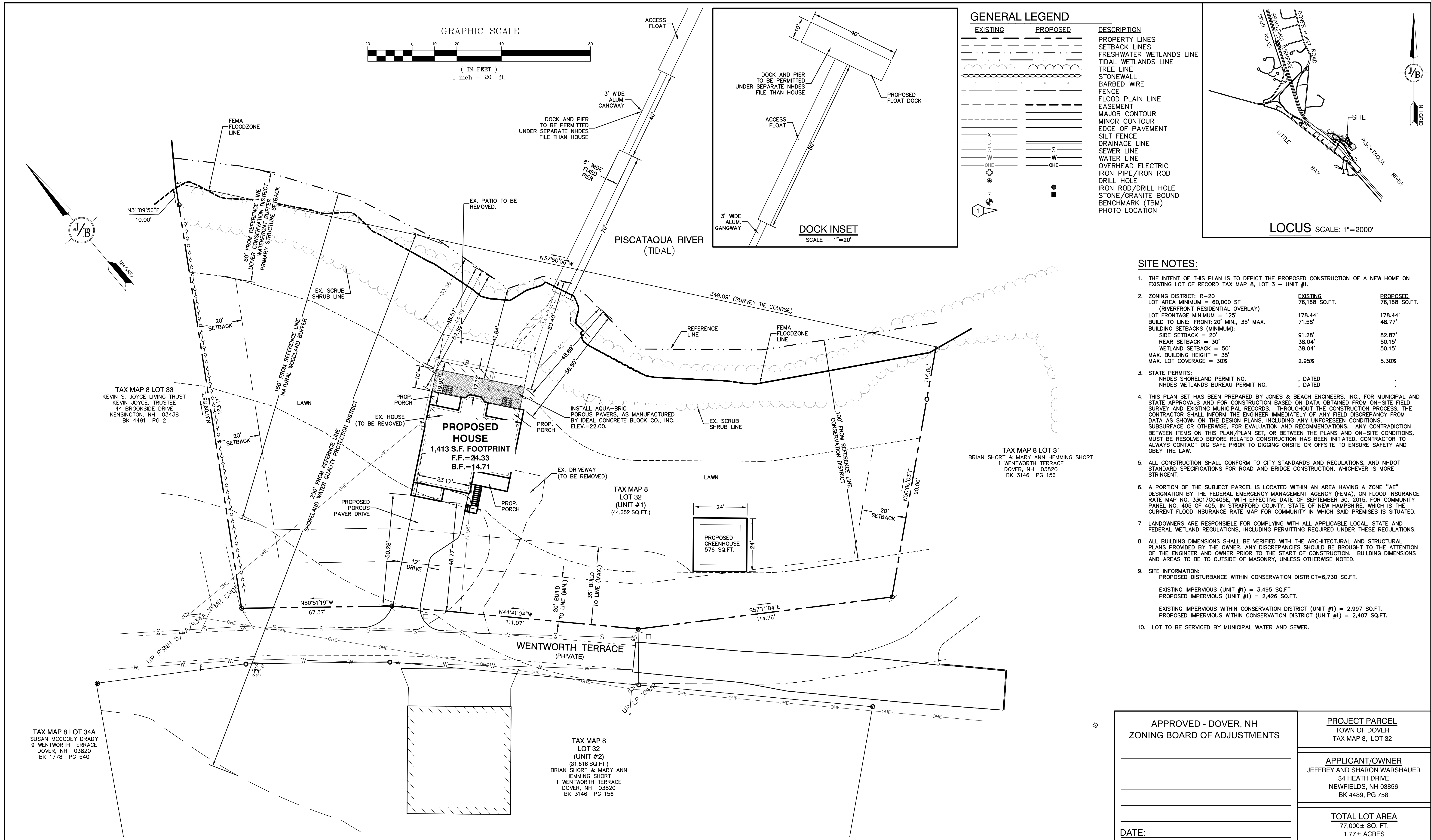
The general purpose of the ordinance is to promote orderly development and to protect the health, safety and general welfare of the public. In this instance, the Applicants seek to locate a single-family residence beyond the required build-to-line in an effort to promote orderly development. The purpose of the build-to-line concept is geared to context sensitive design vis-a-vis the aesthetic aspects of a community, and, in this case the context appears to be a merely travelled dirt roadway. In this instance, requiring the Applicants' single-family home to meet the build-to-line is unnecessary as the neighborhood is well established, and the house is to be constructed 22.81 feet closer to Wentworth Terrace than the existing house, while meeting all other setbacks, including those associated with the Shoreland.

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

The proposed use is reasonable because it provides for the location of the single-family residence within an area that is similar to surrounding single-family homes, in an area that is served by a dirt road. Requiring the house to be closer to the dirt roadway serves no purpose, particularly in light of the existing neighborhood and lack of public travel within the area.

Z17-20 3 WENTWORTH TERRACE

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
08037-000000	10 WENTWORTH TR	CITY OF DOVER		288 CENTRAL AVE	DOVER	NH	03820
08035-000000	11 WENTWORTH TR	MAKRIS ALEXIS TRUSTEE	MAKRIS A	11 WENTWORTH TERRACE	DOVER	NH	03820
08032-000001	3 U-1 WENTWORTH TR	WARSCHAUER JEFFREY &	WARSHAL	3 WENTWORTH TERRACE UNIT 1	DOVER	NH	03820
08033-000000	7 WENTWORTH TR	JOYCE KEVIN TRUSTEE	JOYCE KE	44 BROOKSIDE DRIVE	KINGSTON	NH	03438
08034-A00000	8 WENTWORTH TR	DRADY MCCOOEY SUSAN A		9 WENTWORTH TERRACE	DOVER	NH	03820
		JONES & BEACH ENGINEERS	BARRY G	PO BOX 218	STRATHA	NH	03855
		FRANCIS X. BRUTON ESQUIF	BRUTON	601 CENTRAL AVENUE	DOVER	NH	03820



Design: BWG	Draft: BWG	Date: 07/31/17
Checked: BWG	Scale: 1"=20'	Project No.: 17143
Drawing Name: 17143-DESIGN.dwg		
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.		

0	08/07/17	ISSUED FOR REVIEW	BWG
REV.	DATE	REVISION	BY

Designed and Produced in NH

J/B Jones & Beach Engineers, Inc.

85 Portsmouth Ave. PO Box 219 Stratham, NH 03885

Civil Engineering Services

603-772-4746 FAX: 603-772-0227 E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	ZBA SITE PLAN
Project:	TAX MAP 8, LOT 32 3 WENTWORTH TERRACE, DOVER, NH
Owner of Record:	JEFFREY & SHARON WARSCHUER 34 HEATH DRIVE, NEWFIELDS, NEW HAMPSHIRE 03856

DRAWING No.
Z1
SHEET 1 OF 1 JBE PROJECT NO. 17143