

**TOWN OF DOVER ZONING BOARD OF APPEALS REGULAR MEETING HELD ON WEDNESDAY, June 2, 2010, AT 7:00 P.M. AT THE DOVER TOWN HALL:**

**PRESENT:** Chair Marilyn Van Millon  
Member George Wittman  
Member Henry Williams  
Member Debra Kaufman  
Member Anthony Fusco

Also in attendance was Secretary to the Board, Maria O’Leary, and Attorney Joseph Charbonneau of Hogan and Rossi.

Chair Van Millon called the meeting to order at 7:00 p.m. and began with the Pledge of Allegiance. She then read the first item on the Agenda as follows:

CONTINUED DISCUSSION/PUBLIC HEARING - LukOil - Z 2009-07 – The applicant seeks to appeal Sections 145-39 C. (2) and D. (3) of the Town of Dover Zoning Law. The requested area variances would, if granted, allow the applicant to have a freestanding price sign exceeding the 16’ maximum dimension by 9’ and exceeding the 10’ height maximum by 2.6’ and also be internally illuminated. This property is located at 3160 NY Route 22 in Dover Plains, NY, and is located in the HM district on tax map #7063-11-534507.

There were no representatives for LukOil in attendance.

Chair Van Million read the next item on the Agenda as follows:

DISCUSSION/PUBLIC HEARING – Dachille 2 - Z 2010-01 – The applicant seeks to appeal Section 145-11 of the Town of Dover Zoning Law. The requested .52 acre area variance would, if granted, allow the applicant to subdivide a piece of property without meeting the required five acres in the RC District. This property is located at 51 Dugway Drive on Tax Map #6959-00-383093.

In attendance were William Dachille and his representative, Joel Chase from Zarecki and Associates.

The existing parcel is located on 51 Dugway Drive. The applicant purchased this property on October 21, 1988. The existing parcel is 5.98 acres and is comprised of a four-bedroom dwelling, a detached garage, a shed, a pool, individual well, septic system and horseshoe driveway. When the applicant purchased this property, the entire parcel was classified as a two-acre zoning, which was R-80 low-density residential; since then, the area was rezoned and the property is now divided into two zoning districts; there is the SR district and the RC district. The dividing line is the stream that goes through the property. The applicant is proposing to subdivide this 5.98 acre parcel into two lots under the conventional subdivision regulations of the Town of Dover. One lot will comprise of all the existing structures, the house, the driveway, etc., and the proposed lot will have all new structures, well and septic system and driveway.

Previously the applicant proposed a two-lot flexible subdivision, however, due to various reasons, the application was denied. The only avenue remaining is to subdivide this parcel utilizing the conventional subdivision regulations. Due to the lot acreage, a variance is required.

In order to subdivide in a flexible subdivision, the Town requires a conservation area which the flexible subdivision didn't provide; the flexible subdivision was not designed for a two-lot subdivision.

When the area was rezoned, they used the rear property line in Pawling Lake as the zoning line except for the West side Dugway Drive which used the run-off stream as the line versus the rear property line. If they had used the back of the property line, a variance wouldn't have been required; this property is split in half with the zoning line. When the DEC came and marked out the wetlands on the property, their points were taken and transferred.

In 2004, the Zoning Board asked the advice of Joel Russell who wrote the zoning ordinance; his advice was to pursue a flexible subdivision in front of the Planning Board. The Zoning Board never ruled on this application.

The main difference between the two applications is the original application was going to create a flag lot. A flag lot requires double the size of the norm in a subdivision in the RC district. Pawling Lake is the subdivision; the area in Pawling Lake is all one-acre zoning like the front of this property. Most of the flag lot portion would have been in the five-acre zone, therefore ten acres was required. The current application has 100 feet of road frontage which is required in the SR district on a private road; therefore it is now a conventional lot. The original application showed 70 feet of road frontage.

The lots on the West side of Dugway Drive were not part of the original subdivision. There were three phases of the subdivision of Pawling Lake back in the 1950's. The West side of Dugway Drive is not shown in any of the subdivision maps for Pawling Lake. It was part of the original property that was subdivided and the owner split those lots off and they weren't really supposed to be sold. After the subdivision went bankrupted back in the 1950's and it turned over to the next people, those lots were formed and sold off at that time; the original intent was to keep those larger lots for the owner. They are not part of any Pawling Lake subdivision maps, but they are by deed part of Pawling Lake. Out of the five lots, three have been developed and the rest are part of Beaver Pond Swamp on that side of the road.

**MOTION:** Member Wittman motioned to declare this application a Type II Action under SEQRA, therefore, no further environmental review is required; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye  
Member Wittman – Aye  
Member Kaufman – Aye

Member Fusco – Aye  
Member Williams – Aye

Dugway Drive is not a County road, it's a private road; therefore, it does not have to be sent to Dutchess County. The public hearing has been noticed in the paper.

The rear and left-hand side of the property is New York State conservation land. Secretary O’Leary will notify NYS of this application prior to the July 7, 2010 meeting; the previous notification was sent to Dutchess County as that is the legal mailing address.

**MOTION:** Member Wittman motioned to open the public hearing; seconded by Member Kaufman.

VOTE: Chair Van Millon – Aye	Member Fusco – Aye
Member Wittman – Aye	Member Williams – Aye
Member Kaufman – Aye	

There were no members of the public in attendance for the Dachtile public hearing.

**MOTION:** Member Wittman motioned to hold the public hearing open until July 7, 2010; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye	Member Fusco – Aye
Member Wittman – Aye	Member Williams – Aye
Member Kaufman – Aye	

If this application is approved and moved forward, the smaller piece that’s created is still going to be larger than 95% of the properties in Pawling Lake. Pawling Lake is comprised of mostly ¾ acre pieces of property and the smaller one here might still wind up, other than the ones on this side of Dugway Drive, being about the largest parcel in Pawling Lake, including the Beekman side of it. No site walk has been scheduled for this application.

**CONTINUED DISCUSSION/PUBLIC HEARING - LukOil - Z 2009-07**

Still no representative from LukOil in attendance.

**MOTION:** Member Kaufman motioned to continue the public hearing on **LukOil** until July 7, 2010; seconded by Member Williams.

VOTE: Chair Van Millon – Aye	Member Fusco – Aye
Member Wittman – Aye	Member Williams – Aye
Member Kaufman – Aye	

The current LukOil sign is very tall; the proposed height will be reduced; they’re going to use the same size signs, but they are going to be located lower. One major concern with the height of the sign is the site distance from the northbound lane as you’re exiting on the southbound of the property. It is recommended that the applicant place a piece of cardboard or plywood the same size in the proposed location which would be the exact positioning and size on those posts so that a 3D judgment can be made.

A letter from the NYS DOT, dated April 19, 2010, #3 states, “Projecting signs should not project into, above, or within 14.4’ of the edge of the travel lane, and shall not project beyond lot lines.” Member Wittman measured and it’s currently 16’ to the edge of the post, so unless they’re going to bring that sign out, they should be asked to verify if that measurement is correct.

Attorney Charbonneau suggested in order to expedite this next month, to have the secretary contact LukOil, tell them your concern regarding putting up a façade structure that would simulate the height and width of the sign so that the ZBA and the public in general can get an opportunity to see that prior to next month's meeting.

Internal illumination is another variance that is requested. Four out of five votes is required for the illumination variance since Dutchess County Planning advised against internal illumination. Sunoco and Cumberland Farms were already asked to get into compliance; the Town of Dover sign regulations were changed in 1999; all existing nonconforming signs were supposed to be brought into compliance by 2004.

Most newer gas stations have digital price signs; illuminated price signs are usually seen in older gas stations from the 1970's and 1980's.

Attorney Charbonneau reminded the Board that not only is a super majority of the Board required for the illumination variance, but the Board would also have to articulate the reasons for its decision on the record.

**MOTION:** Member Kaufman motioned to approve the May 5, 2010 minutes; seconded by Member Williams.

VOTE: Chair Van Millon – Aye  
Member Wittman – Aye  
Member Kaufman – Aye

Member Fusco – Aye  
Member Williams – Aye

**MOTION:** Member Wittman motioned to adjourn the meeting at 7:30 p.m.; seconded by Member Fusco.

VOTE: Chair Van Millon – Aye  
Member Wittman – Aye  
Member Kaufman – Aye

Member Fusco – Aye  
Member Williams – Aye

Meeting adjourned at 7:30 p.m.

Respectfully submitted by:

Maria O'Leary  
Secretary to the Zoning Board of Appeals