

## Town of Dover Planning Board

Town of Dover  
Historic Tabor Wing House  
3128 Rt 22  
Dover Plains, NY 12522



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Planning Board Meeting  
Monday - March 16, 2009  
7:00PM

p	<b>Co-CHAIR David Wylock</b>
p	<b>Member Barbara Kendall</b>
p	<b>Member John Fila</b>
p	<b>Member Brian Kelly</b>
p	<b>Member James Johnson</b>
p	<b>Member Valerie LaRobardier</b>
p	<b>Member Peter Muroski</b>

**Also, in attendance representing the Planning Board were Planning Board Attorney Victoria Polidoro, Planner Ashley Ley and Engineer Joseph Berger. For the Applicants: John Kalin & Michael Conway for Mountain View Subdivision, Joseph Buschynski for Prendergast Subdivision \* Scott Daversa ARB Chair, as well as other interested Members of the Public.**

### Meeting Called to Order

**The regular monthly meeting of the Town of Dover Planning Board was called to order by Chair Wylock at 7:01 PM and began with the Pledge of Allegiance**

#### A. Mountain View Subdivision-7160-00-720215

Applicant John Kalin of DC Engineering for Property Owner Michael Conway

Plans Prepared by Zarecki & Associates

Property located at 14 Mountain View Drive, Wingdale

Application for a 2 Lot Subdivision - 32 acres in the RU/RC district - 2lots proposed are 27 acres and 5 acres -

- o Preliminary Plat granted on 09/04/2007, extensions granted 03/04/2008 & 09/02/2008
- o ZBA Variance granted 06/21/2007
- o Department of Health statement dated 01/21/2009
- o Applicant submitted letter of waivers requested for Chapter 65 dated 02/11/2009
- o Proposed well Easement description submitted

Applicant seeks final Plat approval

John Kalin & Michael Conway

Map revision date 2/10/09 for this meetings discussion

Mr. Kalin-existing parcel with apartment building now being subdivided into 2 parcels 27 acres & 5 acres. Design septic has been approved by Health Department through a letter of intent. He received and believes he addressed comment made by Engineer Berger.

- Culvert comment for the end of the driveway - if there was a grade created to bring water flow to the east; most drainage would be existing drainage inlet. Most water would be captured, treated and directed east, and create less disturbance. Engineer Berger noted there is a pole in that area. Mr. Kalin was confident that he would be able to work around that. Engineer Berger noted that a field modification could be done in the future.
- Note to be added to map - site in the UAZ- Upper Aquifer District and it should be noted on map\_ Language provided- *" THIS PROJECT IS LOCATED WITHIN THE UPPER AQUIFER OVERLAY DISTRICT (UAZ). ALL LAND USES AND ACTIVITIES WITHIN THE UAZ ARE SUBJECT TO THE REGULATIONS SET FORTH IN SECTION 145-15 OF THE TOWN CODE OF THE TOWN OF DOVER, AQUIFER OVERLAY DISTRICT, AS AMENDED FROM TIME TO TIME."*
- A metes and bounds description has been received but a true easement description needs to be submitted.
- Surveyor's certification
- Letter from G.T. Hearn re: satisfied with work done in response to violation

#### B. PRENDERGAST SUBDIVISION 7059-04-810295 & 7059-00-820299

Applicant: Michael Prendergast

Plans Prepared by Joseph Buschynski of Bibbo Associates

Property located at 48 Sprague Road Wingdale, NY

Application for a 3 lot Subdivision, conventional plans submitted

Including existing conditions lay out, subdivision plan, erosion control, drainage and driveway profiles with site details with 4 copies of a SWPPP-

Dover Highway Superintendant letter of response dated 02/25/09

& J.H Ketcham Hose Company letter of response dated March 1, 2009

JOSEPH BUSCHYNSKI

Plan set shows comments from site walk addressed

Prendergast owns 2 parcels .4 acres & 3.6 acre larger contains a 2 bedroom residence, along with accessory structures. Proposing to merge to lots and divide to create existing house in lot 1, and provide 2 additional lots. A private road would be constructed, the existing residence would

Plans for drainage

- collect roof drainage, and direct it to onsite infiltrators
- collect driveway and road drainage and bring it to a rain garden system located on lot 1

The need for the rain garden system is for the relocation of a well that currently services lot 1.

Mr. Buschynski response to Engineer Berger Comments-

- Close relationship of the well to the stream to be adjusted to meet the 25' regulation of the State & County
- Abandoning of the well- excavation around the well casing and cut to 1' below grade, well will be filled with concrete, shutting it down completely, there would then be no introduction of water into the aquifer

- Well located just off the property which service residents on the west side of Sprague. Well is located accurately the pipe is shown as described to the owner. The pipe will be accurately located and placed in an easement. If there is a conflict with improvements, the lot could easily be located.
- The Nature Conservancy's property contains the well, it is unsure if they are aware of its existence. It is not a drilled well it is a well pit with a gravity water line connected, artesian and still in use.
- This line travels under the Town road. There could be a utility easement with rights to repair.

\* There should be a letter by the land conservancy for them to acknowledge the well existence

It was stated the stream is intermittent and this should be documented possibly be DEC. - There exists a written check list from DEC it was indicated that if this were a perennial stream that connects to the Swamp river then this would be protected. In DEC's maps they have no record of this stream. They have not asked for verification. This runs into a class C stream, but does not appear on their maps. It was wet last spring during the site walk

- Was the Natural Heritage Program contacted for Species?

A: Yes - Great Swamp near and potential of Bog turtle habitat within 1 mile of the site

ROAD FRONTAGE- The lot that has the frontage from the hammerhead, is the same lot that owns the driveway, - It will be built to private road standards. (A copy of these standards were forwarded to the Engineer)

Applicant can request a gravel road as opposed to paved.

- Easement & maintenance agreement showing that this will be maintained for as long as lot 2 shall exist. A declaration should be filed with the County Clerks office, along with a note on the map.
- Lot 1 property line goes over stream- there should be a note on the map for no filling or blocking or disturbance of the stream
- Maps need to be cleaned up (subdivision) i.e.: well circles are not needed on the layout map
- Well sealing needs to be certified

#### Erosion Control:

Why were underground infiltrators needed on a rural subdivision? - rain gardens or if too steep a combination of a rain garden and cistern would be a better fit. Rain gardens on lots 2 & 3 will be considered either in the location of the infiltrators or even closer to the residence. For roof drainage it would work well a combination of a cistern & rain garden

The private road now creates a corner lot- setbacks need to be looked at- corner lots require a side set back as well as a front yard setback. 140-30-b. right now this is a preexisting structure, there is a 25 ' setback for the side yard, now that it is becoming a corner lot it require double the amount tow front yard and two side yards with no rear yard setbacks.

Applicant should be referred to the ZBA for either a variance or for interpretation

**RESOLUTION REFERRING APPLICATION TO ZONING BOARD OF APPEALS****PRENDERGAST SUBDIVISION**

Date: March 16, 2009

Property Address: 48 Sprague Road, Wingdale, NY

WHEREAS, an application for preliminary subdivision approval for a 3-lot subdivision located at 48 Sprague Road, Wingdale, New York, Grid Nos. 7059-04-810295 & 7059-00-820299, has been submitted to the Planning Board for approval; and

WHEREAS, Section 145-30(B) of the Code states that “[w]herever a side or rear yard is adjacent to a street, the front setback shall apply to such side or rear yard”; and

WHEREAS, Lot 1 contains an existing house which has a side yard setback of 17.3 feet; and

WHEREAS, a private street is proposed adjacent to Lot 1, rendering Lot 1 a corner lot for which a setback of 50 feet is required.

**NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby refers the application to the Town of Dover Zoning Board of Appeals for consideration of a variance to allow a side yard setback of 17.3 feet for an existing structure on a corner lot.**

Dated: March 16, 2009

Moved By: Valerie LaRobardier Seconded By: Barbara Kendall

Resolution Approved/Disapproved:

Dave Wylock: Aye  
 John Fila: Aye  
 James Johnson: Aye  
 Brian Kelly: Aye  
 Barbara Kendall: Aye  
 Valerie LaRobardier: Aye  
 Peter Muroski: Aye

David Wylock, Planning Board Chair

- C. Scott Daversa -Chair of the ARB, would like to discuss the roles of Planning & ARB with relation to the Dover Town Code

Questions of interpretation of the code as well as there is a level of frustration

**§ 145-10. Allowable uses**

- F. Change of use or structure. A change of use is the initiation of a use that is in a different use category, as listed on the Use Table, from the existing use of the site or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use, unless the change would result in the enlargement or addition of a sign or an increase of more than 10% in vehicle trip generation as indicated in current trip generation rates published by the Institute of Transportation Engineers.

Attorney Polidoro- So it sounds like signs if they are not part of site plan then require site plan review

§ 145-10-f-(2) Uses by right subject to site plan review. Any change of the use of an existing structure to a use permitted by right subject to site plan review shall require site plan review only if it involves the construction or enlargement of a structure, the clearing, excavation, or grading of more than 1,000 square feet of land, the addition of four or more parking spaces, or the enlargement or addition of signs.

Mr. Daversa- so does signage trigger site plan review?

Attorney Polidoro- It sounds that way, but only the ZBA can make an interpretation the code

Planner Ley- Thinks the intent would be to trigger a site plan review by the Planning Board if a use was getting bigger.

Q: So if a Realtor now becomes a Hair cutting place, does that trigger site plan review? Doesn't it fall under the addition or enlargement of a sign?

The question- What does Mr. Hearn think about it?

From the plain reading it sounds like it triggers site plan but that has not been followed.

He was advised that the Planning Board can not interpret the code that is the job of the ZBA.

The code states an application can not be reviewed unless it is to remedy the violation, then the term violation needs to be reviewed, the Code enforcement officer needs to issue the violation first. It's not a violation until it is declared a violation. It is up to the code enforcement officer and the Town Board.

It is up to the Code Enforcement officer to issue the violation either to remedy or, remove or take them to court.

It was recommended that Mr. Daversa approach the Town Board with his concerns.

Does signage trigger site plan review?

145-65 should be revisited

§ 145-65. Site plan review.

D. Criteria. In reviewing site plans, the Planning Board and Architectural and Community Appearance Board of Review shall consider the criteria set forth below. The Planning Board may also use as approval criteria the three-volume set of illustrated design guidelines published by the Dutchess County Department of Planning in 1994, titled "Hamlet Design Guidelines," "Building Form Guidelines," and "Rural Design Guidelines," and may adapt the recommendations of those documents to the requirements of this chapter.

It is not clear who does what review

Example-Hunts Country Furniture- A wood burner was constructed where the parking lot was to be located, the landscaping plan was not complied with and they received a C/O.

Chair Wylock approached the Building Inspector and he stated it did not reduce the parking.

The Concern is the retention, landscaping and other conditions of approval were not met but that added a structure that was not before nay Board and they have their C/O.

There are different issues of concern; enforcement as well as compliance with the approval and code.

Before Escrow is released, the Chair should review the site plan for completeness and there should be a site review to see that the site plan has been complied with before the C/O is issued.

Mr. Hearn is the Zoning Administrator and the Code Enforcement officer.

There was discussion that the Planning Board Engineer doing a final review. If a C/O is wrongly issued and then challenged it can be revoked.

There is a missing element between a violation being created, a violation being issued and the enforcement then remedy.

It was suggested that both Chairs with Attorneys sit down and discuss revisions for the code and criteria and process to then bring concerns to the Town Board

The map an applicant submits to Planning and ARB should be the same to insure both boards are reviewing the details

Wind Rose-

Chair Wylock wanted to make the Board aware that Chapin & Light for Wind Rose has been bought out. Mr. Wilhelm is still with the project, but Jeff Jones will no longer be the project manager. Cathy Kulzer will be stepping in.

Chair Wylock distributed copies of a letter sent to Dover Knolls, with respect to returning a bond for wells. A bond renewal was submitted to the Town Clerk, March 2009, for well drilling. There are no active permits at this time; these permits expire after 1 year. We had a request to return a Chapter 65 bond, it was inspected, Mr. Hearn & Joe Berger inspected the site and we signed off on the return. If they would like to proceed with their well drilling they would need to renew their permit. They could have applied for an extension. It seems as though there were 2 bonds and it has been difficult to locate the original bonds. The Planning Secretary has discovered that yes there were two bonds submitted, but the original bonds have not been located and the record keeping of these bonds has been inconsistent. So this letter was sent to the applicant along with their bond and an application for an Erosion Control Permit.

The work for the remediation was completed and inspected. A permit is only good for 12 months; applicants may always apply for an extension.

A meeting between the Town Clerk, Finance Department and the ZBA/Building, Planning /ARB clerks will be arranged in order to set procedure in place.

*E. Minutes - January 12, 2009 & February 2, 2009*

Correction February minutes-

Mapping on Camp Ramah- maps within the Rattlesnake report show the location of the structure in a different location where in fact the location has not changed, but is incorrect in the report

Should be clarified in minutes

January Correction-

Page 5 - Ketcham's Corner- the tax line property line grid line It doesn't make sense. Both uses on same lot with different grid this statement should be clarified as well.

**Motion made by Barbara Kendall to accept the January & February minutes with revisions as noted 2nd by John Fila**

VOTE: DAVID WYLOCK - AYE                      MEMBER BARBARA KENDALL - AYE                      MEMBER JOHN FILA - AYE  
MEMBER BRIAN KELLY-AYE                      MEMBER JAMES JOHNSON- AYE                      MEMBER PETER MUROSKI- AYE  
MEMBER VALERIE LAROBARDIER- AYE

**Motion made by James Johnson to adjourn 2nd by John Fila**

VOTE: DAVID WYLOCK - AYE                      MEMBER BARBARA KENDALL - AYE                      MEMBER JOHN FILA - AYE  
MEMBER BRIAN KELLY-AYE                      MEMBER JAMES JOHNSON- AYE                      MEMBER PETER MUROSKI- AYE  
MEMBER VALERIE LAROBARDIER- AYE

Respectfully submitted,

Betty-Ann Sherer

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Full Audio may be requested for a fee by completing a FOIL request form from the Dover Town Clerk