

TOWN OF DOVER ZONING BOARD OF APPEALS REGULAR MEETING HELD ON WEDNESDAY, July 15, 2009, AT 7:00 PM AT THE DOVER TOWN HALL:

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

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

Chair Van Millon called the meeting to order at 7:00 pm and began with the Pledge of Allegiance. She then announced that they are going to skip over the first item on the Agenda, **Ten Mile River LLC**.

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

CONTINUED PUBLIC HEARING - **PRENDERGAST** – Z 2009-03 – The applicant seeks to appeal Sections 145-30 B. and 145-11 B. of the Town of Dover Zoning Law. The requested 12.7’ area variance would, if granted, allow the applicant to subdivide a piece of land without meeting the required 50’ front yard setback for a corner lot in the SR District. This property is located at 48 Sprague Road on tax map #7059-04-810295 & 7059-00-820299.

In attendance were the applicants, Joseph Buschynski and Debra Kaufman of Bibbo Associates, LLP.

Chair Van Millon stated that a site walk was conducted on July 2, 2009 and entertained a motion to close the public hearing.

MOTION: Member Wittman made a motion to close the public hearing; seconded by Member Fusco.

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

The Board reviewed the criteria for a decision.
Code of the Town of Dover – Section 145-59 D. (2)

- a. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance? No.
- b. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance? No.
- c. Is the requested area variance substantial? 13’, No.
- d. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? No.

- e. Was the alleged difficulty self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance? Yes.

MOTION: Member Wittman made a motion to grant the area variance; seconded by Member Fusco.

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

Attorney Liguori explained for new member, Henry Williams, that the landowner is subdividing this particular piece of property; it currently exists as one piece with an existing house. They are creating two additional lots and carving off the original house into its own new lot and they're proposing a road. In the Town of Dover Zoning Code, there is a requirement that if your house is a corner lot, which this will be after the creation of the road, it has to have a front setback on two sides. One side would not have the required setback so they needed to come in for a variance because they needed 50' from the centerline of the road to the structure and he has 37' available; they need a 17.3' variance.

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

PUBLIC HEARING – **DBL GAS STATION** (Singh) – Z 2009-04 – The applicant seeks to appeal Section 145-40 L. of the Zoning Law. The requested area variance would, if granted, allow the applicant to erect 1.2 foot candles in excess of the 0.5 foot candle maximum. This property is located at 1827 Route 22 on tax map #7160-00-001179 in the HM District.

In attendance was the a representative for the applicant, Jordan Valdina of Synergy Design.

MOTION: Member Fusco made a motion to open the public hearing; seconded by Member Wittman.

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

Mr. Valdina was not able to attend the scheduled Planning Board public hearing, which was rescheduled. The circulation for SEQRA had not happened because the forms were not forthcoming because there were some questions. The Planning Board meeting has been re-scheduled for August and Mr. Valdina did go to the ARB. The ARB didn't make a final determination because they also needed to have the circulation completed. The ARB did, however, weigh in on the issue of the lighting, so in an informal statement they said they did not see any problem with the lighting.

If the Planning Board closes the public hearing and adopt a neg dec at the August meeting, then the ARB could issue its approval the second Monday and then the Zoning Board can take action on the third Wednesday. The ZBA will keep the public hearing open until that time.

A response from DC Department and Planning and Development stated that it this application is a matter of local concern.

A statement was issued stating that the ZBA has no problem with the lighting at this point and once the SEQRA process is complete then they can issue the variance.

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

DISCUSSION – Keller 2 Subdivision – Z 2009-05 - The applicant seeks to appeal Section 145-11 of the Town of Dover Zoning Law. The 109.75' area variance would, if granted, allow the applicant to subdivide a piece of land without meeting the required 250' of road frontage. The property is located at Clover Lane & Benson Hill Road in the RC District on tax map #7063-00-768737.

In attendance was the engineer, Rich Renna, Jr. of Renna Engineering Design.

Mr. Renna showed the map that was submitted. There's a large farm parcel, about 148 acres with an existing house that actually fronts on Benson Hill Road. The larger parcel comes around and goes up to the top of Dover. The proposal is to take the existing house that was built in the 1960's and break that off on to it's own parcel and transfer that to one of the children in the family.

This application has been to the Planning Board and there were discussions over whether Clover Lane is a private road or shared driveway. The Planning Board determined that it was not a private road because it does not have adequate pavement; it would need to be up to Town road standards, therefore, they would require frontage on Benson Hill Road, which is a Town road. The Town road requirement in the current RC two-acre district is 250'. A 109.75' variance is requested to allow the subdivision of this property. It would have the full two acres and there is an existing right of way, so the full two acres does not include that right of way; the lot would have it's own full two acres and the variance would be for the front portion of the property along Benson Hill Road. There is already a house there, no new development or disturbance is proposed.

MOTION: Member Wittman made a motion 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 Fusco – Aye
 Member Wittman – Aye Member Williams – Aye

MOTION: Member Wittman made a motion to set the escrow at \$250; seconded by Member Fusco.

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

General municipal law referral to Dutchess County is not needed because Benson Hill Road is not a County road.

This is in an AG district. An AG District Data Statement was completed and shows the names and addresses of all adjoining properties.

MOTION: Member Fusco made a motion to set the public hearing for August 19, 2009; seconded by Member Wittman.

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

APPROVAL OF MINUTES - Approve June 17, 2009 minutes.

The members had not read the minutes, therefore, the approval will be tabled until August.

OTHER MATTERS - **Discussion of application procedures**

A discussion arose regarding streamlining the ZBA application process. A proposal was made to start the application process with a public hearing instead of a discussion at the first meeting. It would save one month and a lot of money for the applicants. Attorney Liguori will create a proposal and a resolution for the ZBA to consider. He will also look into seeing if a \$100 escrow can be set as part of the original application process to be used for mailings, public notices, etc. and to change the application submission date to three weeks prior to the public hearing.

OTHER MATTERS - **Discussion of unresolved, pending applications**

An application for a variance for signage for Luke Oil was submitted in March 2009 and was discussed at the March 18, 2009 ZBA meeting. The business has since closed and the matter is unresolved. A rejection of the application would be appropriate if they were to come back to the Board. If the application is no longer pending before the Zoning Board, then the stay to allow the signs to remain is gone.

OTHER MATTERS – **Executive Session**

MOTION: Member Wittman made a motion at 7:45 p.m. to go into executive session to discuss a problem which could potentially lead to litigation; seconded by Member Fusco.

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

MOTION: Member Wittman made a motion at 8:05 p.m. to resume the ZBA meeting; seconded by Member Fusco.

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

MOTION: Member Fusco motioned to adjourn the meeting at 8:05 p.m.; seconded by Member Wittman.

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

Meeting adjourned at 8:05 p.m.

Respectfully submitted by:

Maria O’Leary
Secretary to the Zoning Board of Appeals