

Town of Dover Planning Board

Town of Dover
126 East Duncan Hill Road
Dover Plains, NY 12522



(845) 832-6111 ext 100

Planning Board Meeting
Monday May 3, 2010
7:00PM

- Co-CHAIR David Wylock
- Co- Chair Valerie LaRobardier
- Member John Fila
- Member Brian Kelly
- Member James Johnson
- Member Peter Muroski
- Member Michael Villano

Also, in attendance representing the Planning Board were Planning Board Attorney Victoria Polidoro, Planner Ashley Ley, Scott Ouimet and Michelle Zervas for the office of Joseph Berger.

For the Applicants: Rich Renna for Camp Berkshire and El Universal, Donald Flood- Property owner for Lavish Special Permit, Joel Chase of Zarecki & Associate and Bill Dachille for Dachille Subdivision, Brian Houston of Bly and Houston for Gardner Hill Subdivision, John Kalin for 22 West Properties and 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 7:07 PM and began with the Pledge of Allegiance

Co-Chair Wylock - We have a secretary sitting in for our secretary; Betty-Ann had a death in her immediate family and Maria from the Zoning and Building Department secretary agreed to pitch in for the night.

CAMP BERKSHIRE - ESC- 7161-00-343242
Applicant Hector Perez Property Owner Greater NY Corp of Seventh Day Adventist
Plans Prepared by Renna Engineering Design PLLC
Property located at 680-1 Berkshire Road, Wingdale
Application for Erosion Control Permit to affect 7.61 acres of a 193.536 acre site
in the RU district within the AQ overlay district site grading
Narrative and revision to SWPPP submitted

Presenting for this application- Rich Renna, Jr. of Renna engineering Design PLLC

Engineer Renna: The project proposes to take and to serve about 5.7 acres; they want to re-grade the site to create a flatter spot that can be used for athletic fields and their temporary structure that they put up. We had a site walk on the 18th and that answered some of the questions, we also address the engineer's comments on the SWP and submitted a revised SWP and we're back here tonight to ask the Board if everybody is ready for us to have a public hearing.

Co-Chair Wylock: Yes, we did have a site walk on the 18th and a couple of things we made note of; one is on the temporary structure, the buttresses that are now not permanently fastened and I think we would want to have that done so when you move the tent to a different location, it will be set in concrete.

Engineer Rennia: The bottom of the columns:

Co-Chair Wylock: Yes, because a lot of the buttresses are like at a 45 degree angle right now and I think they should be secured by the net.

Engineer Rennia: I'm assuming when I looked at it, there were no other supports, there was just a loose skeleton there now, and then when the actual cover goes over the top and they actually anchor the outside that everything becomes a rigid object at that time. What we're looking at was everything was like a loose skeleton that wasn't completely put together the way it should be. Ultimately, in the future as a part of the master plan that they did show to the Board of what they want to do, and of course that is dependant on finances and raising the money to do that, they would like to put in permanent foundations for that so it's just a matter of bolting it into the ground, that is their long term plan. Like a regular building will be constructed, you have bolts up, you just drop it down and bolt it in and you're all done.

Engineer Zerfas: They answered most of our questions, there's just a few more on the SWP. One thing that we would like to see added to the plans, right now it's grass in your 5% area, the master plan shows that it will possibly be gravel, we don't know if that's your plans, but we would like to see a note on the plan that says, should it ever go to gravel, it would trigger impervious if it's less than an acre, we want to consider it still a part of this, you have to modify it.

Engineer Rennia: That's fine, we will add that on. I have a copy, I went through it and I don't have any concerns.

Planner Ley: On the site walk, we discussed the possibility of pursuing site plan review for just this portion of the project and I think that's still an option to pursue and in the long term having it mounted on concrete and having a more stable area I think would be better. I know that you have a larger master plan that you want to pursue and I think it's possible to put that on hold and pursue the smaller area at this time. The other comment I had last time was whether you contacted the NY Natural Heritage program and have you heard back from them yet.

Engineer Rennia: Lloyd just informed me tonight that he, at the last meeting, he said that he had a letter from a previous question that they had asked them and I have not looked at that letter yet, he just told me that tonight.

Planner Ley: If it was more than two years ago, we would need a new one.

Engineer Rennia: I'm not sure of the date.

Planner Ley: I know with Camp Ramah, they had timber rattle snakes, so I'm sure that's going to come up on yours as well, so we would need something to show that habitat.

Engineer Rennia: With that particular species that is rather simple because they tend to live in the woods and the mountain areas rather than out in the overgrown grass fields. You'll sometimes catch them there in a very dry summer; I know that that's what locally happens here, so I think that we would be clear of that because we're not actually taking down any of the existing forest. If it's more than two years old, we will re-write to the Heritage program.

Co-Chair Wylock: You mentioned something in your notes, Ashley, about the new Town Code for camps, the large event management plan.

Planner Ley: If you do pursue site plan review, you would need to prepare a large event management plan, which would discuss how you're going to get people into and out of the area in case of emergency, where they're going to park, where they are going to use the rest rooms, etc. (Ashley gave Rich an extra copy of her comments).

Attorney Polidoro: Just to reiterate what Ashley said, I think the Board and the applicant should decide what path they're going to pursue with this application before you set a public hearing so that we don't have to have to notice two separate public hearings. In the other comment that at one point we had asked for a letter from Tom Hearn just saying that this was, in fact, a temporary structure under the Code, and I don't believe we ever received it; that's something we should follow up on so we have something in the record saying that the tent they're proposing is considered temporary.

Member Johnson: Didn't we have a letter from the last time they were in front of us? I know this question came up the last time they were in front of us.

Co-Chair Wylock: We'll ask Betty-Ann to check the file.

There were no comments from the Board.

Co-Chair Wylock: I think that what Victoria said about some loose ends to tie up here before we set a public hearing and to decide which way you're going to go here.

Engineer Rennia: I'll ask that question to Lloyd, I know that there are several committees that that has to go through. Rich asked Lloyd Scharffenberger if they had decided if they want to go with the site plan or continue with the grading plan. They will get the design information in on the decision that they would like to pursue the site plan.

Co-Chair Wylock: When we get that information, then we will set the date for the public hearing.

Attorney Polidoro: Just to clarify, are we doing the whole master development plan for the future build-out or just the limited site plan?

Engineer Rennia: No, I think the master development plan incorporated that area as like a phase I, this has always been the first item that they wanted to do, so that this would include all the permanent foundations and features to go with the air dome and associated electric and concrete pads for air units and bathrooms.

Attorney Polidoro: I think under our Code, I think this is still going to fall under the Camp regulations.

Planner Ley: It would fall under Camp Type I regulations, what I've suggested in my memo is that they show this proposed air dome location in the contacts of the existing site plan and call that the master plan; so for the time being, the master plan would be what's existing on the property plus the new air dome location and then when they're ready to come back with the larger master plan, we would start from the beginning again with the master plan review.

There were no other comments.

Co-Chair Wylock: I'm going to put you on the agenda for next month's meeting.

Engineer Rennia: I would hold off because I think we're going to have a fair amount of, more than enough design work to get done for a submission of next Wednesday. I will let Betty-Ann know when I'm ready.

EL UNIVERSAL- 7059-04-756319

**Applicant Daniel Quezada Plans Prepared by Rennia Engineering Design PLLC
Property located at 1456 Route 22, Wingdale
Application for Special Permit as per March 11, 2010 G.T.Hearn letter
Parcel in the SR district with in the AQ overlay district on .872 acres of land
Site plan and survey submitted**

Presenting for this application- Rich Rennia, Jr. of Rennia engineering Design PLLC

Engineer Renna: Since the last meeting, we have submitted the site plan and survey to answer a lot of the questions that were asked last time. A quick summary of the project is the applicant, who owns the property, is proposing to modify the use of the existing restaurant and bar into a café/deli/mini-market, the café and food end of that being the primary role of business and the mini-market being the accessory business. In general, we went through the fact that it's a non-conforming use on a non-conforming lot; it's zoned SR, Suburban Residential, so it's a commercial use within a residential zone, but because it's an existing, non-conforming use, the Code Enforcement Officer upon meeting with him, diverted us to a section of the Code that says that the Planning Board has the power with a non-conforming use of equal or lesser impact that the Planning Board can issue a Special Permit for that use.

Engineer Zerfas: As far as wetlands, there's probably none on there, but just put a note on it that you will look at it; the same with the flood plains with a note what is in or not. We would like to see your breakdown of your building floor area; you have retail, restaurant, storage, etc. Also, your dumpster wasn't shown on the plans. And a letter or sign-off from the Heath Department that your septic and well are OK or the engineer.

Engineer Renna: We had investigated the system and we'll write a letter. What I plan on doing is I'll provide a letter to the Board stating what we've found and copy the Heath Department so they're aware of what we've found at that particular parcel or do you just want a letter back from the Health Department.

Engineer Zerfas: We would like a letter back from the Heath Department.

Planner Ley: In my memo, what I've done is I've gone through the criteria that the Planning Board must look at in determining whether or not this use is lesser of a non-conforming use. In some of the additional information that I think the Board needs to look at is, is there any exterior lighting on the building, the hours of operation, whether there is any outdoor seating, the horseshoe pit is going to be used in the evenings, if there's any new landscaping proposed or any other fencing that would otherwise help protect the residences in the area. Generally, I think that it can comply with some mitigation in terms of keeping track of when the hours would be, but I think we do need a little bit more information.

Engineer Renna: We did put the hours of operation on site plan. I'll just read it to you, we can add more detail to this, but just so everybody knows where they are at and now we're proposing where the current use is we had the restaurant and bar as existing, the floor area stays the same at 3,356 square feet. The number of employees per day with the restaurant and bar is 12, seating capacity is 60 seats in the restaurant and the bar, the hours of operation are 11:00 a.m. to 4:00 a.m. The new proposed use is same floor area, estimated number of employees per day would be 5, so that's a lesser impact, the number of parking spaces that might be needed for employees, number of people using the bathroom as well, the seating capacity would be dropped down to 25 and the hours of operation would be 8:00 a.m. to 10:00 p.m.

Planner Ley: Would there be any outdoor seating?

Engineer Renna: I'm assuming in the nice weather since there is a deck and patio in the back that they would want to have that option, but I can ask that question, I haven't asked that question of my client.

Attorney Polidoro: I don't have any legal comments at this time.

There were no comments from Board members.

Co-Chair Wylock: I think the potential here for large gatherings outdoors, it's a big area in the parking area, and I think if we issue a Special Permit we're going to have to place some restrictions on it in terms of lighting, music, the ABC license is going to be for off premises I understand.

Engineer Rennia: I'm not sure how they plan for it, but I think that they started that process.

Co-Chair Wylock: Off premises means that someone comes in and buys a six-pack and they leave the premises and consume it, not to sit on the front steps or if you have a big BBQ in the back yard with kegs of beer and sell the beer.

Engineer Rennia: I don't think that's their intention, the idea of getting away from the restaurant bar, that's the business they want to get away from, the late night bar and they want to get into preparing food and selling people goods and they can leave the premises when they're done eating or take food and essentials with them.

Co-Chair Wylock: The reason I ask is because it's surrounded by a residential neighborhood. There were several noise complaints from the previous tenants.

Engineer Rennia: Yes, and that's why they felt that this was a better use for the property, just the fact that the hours being open until 10:00 p.m. rather than 4:00 a.m. are a huge difference.

Co-Chair Wylock: Are we ready to set a public hearing?

Attorney Polidoro: I'm not sure if this application has been circulated yet to all the other involved agencies. I'm not sure if this was received in time with Betty-Ann being out.

Engineer Rennia: I know that she needed an extra copy and she at least sent it out to Dutchess County Planning.

Co-Chair Wylock: On Ashley's notes here, the application should be forwarded to the fire company also. She can do that when she comes back in the office on Thursday. If there's no problem here, we can set the public hearing.

Attorney Polidoro: You can set the public hearing now for next month or you can wait for the second meeting.

Co-Chair Wylock: The next meeting will be June 7th.

Motion made by Member Johnson to set the Public Hearing for El Universal for June 7, 2010 2nd by Member Muroski

VOTE: Co-CHAIR DAVID WYLOCK – AYE	Co-CHAIR VALERIE LAROBARDIER- AYE
MEMBER JOHN FILA – absent	MEMBER BRIAN KELLY - AYE
MEMBER JAMES JOHNSON - AYE	MEMBER PETER MUROSKI - AYE
MEMBER MICHAEL VILLANO– AYE	

Motion approved

Attorney Polidoro: I think there's a special sign you'll have to pick up from Betty-Ann because it's a Special Use Permit.

Engineer Rennia: Yes, I'll contact her on Thursday.

LAVISH- 7059-02-765531

Applicant Donald Flood- Property Owner Lavish Inc.

Plans prepared by the applicant

Property located at 1534 Rt 22 Wingdale

Application for Special Permit for a contractor's yard on 1 acre of land in the HC district

Presenting for this application- Donald Flood Property owner

Mr. Flood: We bought this property approximately two years ago with the assumption that it was approved for a contractor's yard because the previous owner ran a spring shop and had construction equipment there. It was brought to our attention later after we purchased the property that it wasn't, so that's why we're here tonight, to see what we can do to move forward to make it a contractor's yard.

Co-Chair Wylock: When you say "contractor's yard, there's nothing in the Code defining that, what do you plan on doing with it?

Mr. Flood: Parking heavy equipment trucks, trailers, anything pertaining to construction, excavation, and pavement business, that's what I do for a living.

Co-Chair Wylock: Will it be a material store there?

Mr. Flood: No.

Co-Chair Wylock: Is all the equipment going to be operable, it's not going to be equipment that's dumped there that's no longer being used.

Mr. Flood: No, that would go next door.

Engineer Zerfas: There had been a trailer there, there's probably a sewage disposal system associated with that, we need to know what happened to that, with the septic tank, that sort of thing, whether that was properly abandoned.

Mr. Flood: We didn't own the trailer, someone else owned the trailer and they moved it themselves.

Engineer Zerfas: We still need to know what they used because if it was a residence, there would have been a septic system associated with it.

Mr. Flood: I can get you that paperwork.

Engineer Zerfas: Was the septic system abandoned properly?

Mr. Flood: Yes.

Engineer Zerfas: You said you were spreading topsoil back there?

Mr. Flood: Yes, when they removed the trailer, there was some ruts, we used some material to level up the ground where they had disturbed.

Engineer Zerfas: Are you planning on doing anymore grading; anymore spreading or earth disturbance?

Mr. Flood: No.

Member Johnson: It seems like; I'm kind of lost here why the applicant's even here.

Attorney Polidoro: That was the thing we were trying to figure out. Initially, we couldn't tell from the application what the situation was. Sir, are you saying someone said you were in violation and that's why you had to apply to the Planning Board?

Mr. Flood: Yes.

Attorney Polidoro: And you're in violation because you did some grading without a permit?

Mr. Flood: Correct.

Attorney Polidoro: So you're here for a remedial Erosion and Sediment Control permit, but in addition, I think you're trying to get approval for the use of the lot.

Member Johnson: Well, it's the same use that's been the last 20 years. I'm a little puzzled here because it's the same use as the last 20 years, maybe 30 or 40 years, the other thing is when you have a construction yard and you bring a bulldozer off the trailer or something or the trucks come in or out, you end up grading your parking lot all the time. It's not like you're talking about pushing up 500 yards or even 100 yards.

Engineer Zerfas: The reason I mention this is on his application, he said that he was spreading and leveling the soil, so to me that implies not disturbance by actions associated with it.

Mr. Flood: No, it is disturbance by the trailer that they removed. We had to re-grade and level the property.

Member Johnson: I understand you were cited by Tom Hearn, but I still don't understand why he's here.

Attorney Polidoro: Mr. Hearn found that he was doing grading without a permit, so he has to come here to get a permit.

Engineer Zerfas: Is that grading all done is it receded or are you still in the process of grading it out?

Mr. Flood: No, it's all graded. We're not going to put grass there; it is bank gravel now.

Attorney Polidoro: I think we're supposed to look at what he's done and what he needs to do to bring it into conformance.

Member Johnson: How big of an area did you do?

Mr. Flood: Approximately $\frac{1}{4}$ of an acre or less.

Member Johnson: I don't understand here. I see on the application he said he filled in approximately $\frac{1}{2}$ " of soil, we're talking nothing.

Engineer Zerfas: That it isn't, but there are other earth disturbances. If you just spread a little top soil that usually doesn't count as disturbance, but from this application we can't tell if that's it or if he's got other plans.

Member Johnson: I understand, but what he's saying now it's the same thing that's gone on there fore 20 or 30 years, I really don't understand why he's in front of us for anything.

Attorney Polidoro: He was sent here by the Zoning Administrator and it says both for placing fill and stockpiling without a permit, so that's the erosion and sediment control portion that Tom Hearn said he violated. And it also said establishing a construction yard without site plan approval, so if the applicant feels that he has a pre-existing non-conforming use, the remedy for you would be to either come through or try to establish it here or he can apply to the ZBA to overrule his determination.

Member Johnson: Brian (Kelly) how long has that been a construction yard?

Member Kelly: Forever.

Member Muroski: How long was Billy Springs there?

Member Johnson: 15 to 20 years. Before that, it was a Subaru dealer.

Attorney Polidoro: Did it ever have a proper approval?

Member Johnson: Not 20 to 30 years ago, no.

Attorney Polidoro: I don't have that same kind of background that the Town of Dover has.

Member Johnson: I'm just saying that I really don't understand why the applicant's here.

Member Kelly: And if he disturbed only a $\frac{1}{4}$ acre of property, that doesn't trigger anything doe it?

Attorney Polidoro: I think our trigger is a $\frac{1}{2}$ acre.

Member Kelly: So, if he did a $\frac{1}{4}$ acre, that doesn't trigger anything, is that correct?

Member Johnson: He was repairing ruts, it's not like he was excavating.

Engineer Zerfas: Sometimes what you get and what's reality are two different things. Do you know how many yards of fill you brought on site?

Mr. Flood: Approximately 40 yards.

Engineer Zerfas: So, that's below the threshold as well.

Mr. Flood: Showed on the diagram where he filled and stated that it may be less than $\frac{1}{4}$ of an acre, maybe $\frac{1}{3}$ of an acre.

Attorney Polidoro: I think at this point it's going to be up to the applicant if he wants to proceed in front of the Planning Board for an Erosion and Sediment Control permit.

Member Johnson: From what he did there, the engineer just said an Erosion and Sediment Control permit isn't required.

Attorney Polidoro: But we have something saying that it is, so for the applicant's benefit, he may wish to proceed and get one so that he's no longer in violation or he can appeal this determination to the Zoning Board of Appeals and try to get it overturned.

Member Johnson: I just don't understand, I know he's the Zoning Administrator, but I don't know if he's up on DEC laws and everything and our engineers are telling us it's not needed.

Engineer Ouimet: From what the applicant's telling us, when he was out in the field, he might have seen something that we're not seeing today and see what triggered this.

Member Johnson: Maybe somebody should call Mr. Hearn.

Member Kelly: If he saw the stockpile of material, maybe it was before it was spread.

Member Johnson: Maybe he thought he was going to bring in a bunch of truck loads so he wrote the letter.

Co-Chair Wylock: Did he talk to you personally?

Mr. Flood: No, he didn't.

Member Muroski: Maybe he needs the definition on the construction site, what was the intent? Were they going to just put material in or is it to park trucks?

Attorney Polidoro: I will be happy to call Tom Hearn and maybe we can get the other consultant on the phone.

Co-Chair Wylock: You're still going to have to show the disposal of the septic system, correct?

Engineer Zerfas: Yes, because that can be a danger.

Mr. Flood: That's no problem.

Engineer Zerfas: That's simple, just get something as to how it was abandoned and that it was properly abandoned and the septic tank was pumped out and filled so there's not a danger of it collapsing.

Co-Chair Wylock: The fence that's there is new, did you put that stockade fence up? That requires a permit.

Mr. Flood: Correct, there was a fence there, we just replaced the old fence with a new fence, same material and same height.

Co-Chair Wylock: Should we set escrow here tonight or should we wait until you talk to Tom Hearn?

Attorney Polidoro: We do have an application before the Board right now that we reviewed.

Co-Chair Wylock: Then we should set escrow.

Member Johnson: Can't the applicant just wait until you hear from Mr. Hearn, or maybe he wants to remove the application.

Attorney Polidoro: Right, he can remove it, but we're just hoping that the Town is not liable for the cost that was spent on it already; we've all looked at it for the meeting.

Member Johnson: And, how many times have we said until escrow is set, don't look at anything, how many years have we said that before?

Attorney Polidoro: It is up to the Board.

Member Johnson: I really don't understand it.

Co-Chair Wylock: The engineer, the planner and the attorney did spend time on this application.

Member Johnson: David, how many years have we said this? Shame on them, we've said it for years, don't look at an application until we had escrow.

Co-Chair Wylock: Well, I think we should set escrow tonight to cover their expenses.

Member Johnson: And what happens if the applicant didn't show up, what would you guys do then for all the time you spent looking at it?

Attorney Polidoro: I guess we would either wait until next month.

Member Kelly: What happens if he withdraws it?

Attorney Polidoro: We can have a discussion about our procedures if you'd like. Part of the reason we look at applications is so that we come to a meeting prepared so that we can talk about it and not hold the applicant up.

Member Johnson: Yes, but we have talked about this in the past and we've got stung for big money in the past for doing this.

Co-Chair Wylock: But without them reviewing it, we waste a month.

Mr. Flood: How much money are we talking about?

Attorney Polidoro: Three hours.

Member Kelly: So is that \$600?

Attorney Polidoro: Probably less.

Co-Chair Wylock: I would ask for a motion to set escrow at \$600, what isn't spent, you will get back.

Motion made by Member LaRobardier to set the escrow for Mr. Flood at \$600.00 2nd by Member Villano

VOTE: Co-CHAIR DAVID WYLOCK – AYE
MEMBER JOHN FILA – absent
MEMBER JAMES JOHNSON - NAY
MEMBER MICHAEL VILLANO– AYE

Co-CHAIR VALERIE LAROBARDIER- AYE
MEMBER BRIAN KELLY - NAY
MEMBER PETER MUROSKI - AYE

Motion approved

Co-Chair Wylock: Four to two, escrow is set for \$600. The secretary will be in the office on Thursday.

Planner Ley: We still need to determine which direction you're going to go, if you're going to pursue this application, with the Planning Board or if you're going to pursue it with the ZBA.

Member Johnson: I thought the engineers were going to speak to Tom and maybe as soon as Tom realizes what happened here, he might pull back the violation letter.

Attorney Polidoro: Right, but he is going to make sure the applicant understands the options, which are either wait possibly another month until we clear this up with Mr. Hearn, or we can move forward with the Planning Board application knowing that Mr. Hearn might reverse or change or amend it.

Co-Chair Wylock: How can he pull back a violation if nothing's changed? If he felt a violation existed then, a violation is a violation. You don't change your mind on a violation.

Member Johnson: So, what's he going to come in front of us for?

Attorney Polidoro: For Site Plan review and a Special Permit.

Member Johnson: If it's already been the same thing on the site for the last 30 years, what is he coming in front of us for?

Member LaRobardier: You're going to have to take that up with Tom Hearn because he's the one who issued the violation, it's not the members of the Planning Board ganging up on you and saying it has to be a certain way.

Planner Ley: At this point, it's a business decision for the applicant whether or not he wants to pursue this with the Planning Board and get approvals for what he's doing on the site, or if he wants to go to the ZBA and get the violation overturned.

Attorney Polidoro: If you went to the ZBA, you would have the opportunity to show them evidence that this has been in existence for how many years and that you also only put "x" amount of dirt on the ground so that you don't meet the threshold for a permit, you would have that opportunity, but it would be facts and circumstances, it could take a month or two.

Mr. Flood: The only other thing that you want from me is about the septic tank?

Engineer Zerfas: That's it- that can be a danger.

Attorney Polidoro: And that's if you're moving forward with the site plan and you also need an updated survey.

Mr. Flood: There should be a survey in the package.

Engineer Zerfas: You would need to show that the trailer is not there anymore.

Member Johnson: Mr. Flood, why don't you go talk to the Building Inspector.

Co-Chair Wylock: The survey shows the swimming pool and the trailer on the site. That fence, is that six or eight feet?

Mr. Flood: Six feet.

Co-Chair Wylock: You can let our secretary know which path you're going to take. Do you want to go to the ZBA or do you want to come back here?

Mr. Flood: Do you recommend that I go see Tom Hearn first?

Co-Chair Wylock: I would suggest that you go talk to him, yes.

Mr. Flood: I think that's the avenue I'll take; and at that time I'll decide whether we're going to go forth or, unless you want the money tonight.

Co-Chair Wylock: See Betty-Ann in the office on Thursday when you make your decision.

Attorney Polidoro: Did you want us to contact Tom Hearn in the meantime or should we wait for the applicant to get back to us?

Co-Chair Wylock: Why don't we let the applicant contact him and have Tom give us a letter.

DACHILLE SUBDIVISION 6959-00-383093

Plans prepared by Zarecki & Associates

Property locate at 51 Dugway Drive, Wingdale

Application to subdivide a 5.98 acre parcel with existing residence, detached garage and pool
Into 2 lots, Parcel is located in the RC and the SR districts

Presenting for this application- Joel Chase of Zarecki & Associates

Joel Chase: Previously, the applicant proposed a two-lot subdivision underneath the flexible subdivision regulations, however, due to various reasons, the application was denied. Essentially, the only avenue left for our client is to subdivide his parcel utilizing the conventional subdivision regulations. Due to lot acreage of the property, a variance will be required from the ZBA. At this point, we're looking for the Board to give us direction so we can move forward.

Co-Chair Wylock: So the only difference in this plan and what you had last time is that you're going for a conventional subdivision?

Engineer Chase: Potentially, yes.

Engineer Zerfas: Where you have the two driveways, the new driveway connecting in with the other one, it would probably be a safer connection if you could combine the two into one. The wetlands, the flagging is over five years old, so it would have to be re-done. You're also going to be crossing over the State wetland buffer, you'll need a DEC permit for that. Whatever you mitigate with DEC should be provided on the plan and you're going to need to get the area variance for the subdivision.

Planner Ley: Given the location of the property and the proximity of the wetlands, there's a potential for threatened or endangered species on this site so you should contact the NY Natural Heritage Program and a habitat survey may be required.

Attorney Polidoro: We have a few comments regarding the plan itself; for instance, the boundary line, it would be helpful if you show the zoning boundary line on the large blowup, but before we start revising the plat, we had discussed whether or not the applicant should be sent to the ZBA now for a referral or whether we wanted to do SEQRA first and then send him for the referral.

Co-Chair Wylock: We discussed that at our conference call last week that before the applicant gets too deeply involved here with expenses, it might be wise to go to the ZBA first and find out if they can get a variance or not; if he's not going to get one, then all bets are off and you might as well stop right there instead of spending all your money.

Attorney Polidoro: Normally on an application the ZBA and the Planning Board like to do a joint review, where one Board looks at the environmental impacts and the other Board relies on that review. But I spoke with the ZBA attorney and they said that in a situation like this, that they probably would be comfortable kind of separating it out and looking at it themselves so the applicant doesn't have to put a lot of money up front doing the environmental studies unless they need to. Under our Code, we can do it now or we can do it later. When you refer an application, it asks that the Planning Board refer it with a recommendation, positive or negative on the variance, so if you're comfortable doing it tonight, we can amend the resolution to include a recommendation or otherwise we can wait until the ZBA ask for it.

Member Kelly: What's the acreage of it?

Engineer Chase: 5.98 acres.

Member Kelly: What's the zoning?

Co-Chair Wylock: The lot in question is five and he has 4.40 acres. It is in a split-zone.

Attorney Polidoro: Roz, can you pull up the Zoning line on that map?

Co-Chair Wylock: Did you own this property when the last zoning was done?

Mr. Dacheille: I've been there for 22 years.

Co-Chair Wylock: And you knew they were going to split your property?

Mr. Dacheille: I had no idea whatsoever and the reason this all became a problem is all around Pawling Lake, they used the back of everybody's property line as the zoning line, but on my particular side of the street, they used a run-off stream and split my property in half with the zoning line. If they didn't do that and they used the back of the property line, I would have had this done six years ago. That's the only problem that I have here is where they decided to put the zoning line.

Attorney Polidoro: So, all the property on that side of the street has that same issue.

Mr. Dacheille: The stream is the zoning line, where they put it on that side of Dugway all the way done; it's actually a run-off stream and it dries up a couple months a year during the middle of the summer and when they did the rezoning, they decided to use that rather than the back of the property line. Once they did that, it cut the front of the property into the SR zone, which is one acre, and the rear of the property is in the five acre zone. Originally when I first moved up there, everything was two acre zone, so back then, if I had thought to do this, I could have gotten three lots out of it, but that's a long time ago. I had no idea when they did the re-zone that they were going to do this on this side of the street. If you pull up the rest of Pawling Lake, you could actually see that it takes the back of everybody's property line except for this side of the street. Everyplace else on the Dover side, they used the rear of the property line, except for whatever reason, they decided to do this. It has always been one lot.

Attorney Polidoro: We tried to look back at your subdivision plat when the lot was originally created and we couldn't find the original subdivision plat.

Mr. Dacheille: When Pawling Lake was divided up, it was actually divided in three sections, and the lots on this side of the road, the bigger lots, were never part of the original subdivision. The original developer formed them afterwards and it wasn't part of the "Pawling Lake Subdivision" although all the deeds of those lots say that I'm in the Pawling Lake.

Attorney Polidoro: So, they were formed by deed? This is the Pawling Lake Subdivision plat and it's small, but your lot's not on it, so we're just asking if your lot created by deed?

Mr. Dacheille: We're talking about 50 years ago and it's been that size for 50 years. The guy I bought it from owned it for probably 20 years as well, he was one of the original purchasers up in Pawling Lake back in the 50's, he was a fireman from Queens, only two people that have ever owned it

from day one, except for the original developer, I believe, split those lots off for himself, family, whatever, they were not part of the advertised Pawling Lake Estates, like I said there's another hundred lots on the Beekman side when you go up the hill.

Co-Chair Wylock: And you were never notified when they did the re-zoning?

Mr. Dacheille: Not to my knowledge, no. I went to the Town Board to try to find out the process of changing the Zoning Law and that was described of nearly impossible because of act of legislation and this and that; my original thing I didn't realize that this was going to mess me up at all, but my original application that never even went through, it was heard, but never went through, a decision was never made, was to the Zoning Board, but the problem I had there was if I formed a flag lot, it had to be twice the size of the lot in a conventional subdivision of that, my argument was that my house is in the one acre zone, so should the flag lot be two acres, theirs was the majority of the lot you're looking to make is in the five acre zone, therefore, it should be ten, so I wasn't going to get a four-to-ten. Then, in going to the Planning Board last time, we figured we would try a different route and go for an unconventional subdivision. There were some issues that came up, one of the issues that you had mentioned before about the wildlife, frogs, this was the craziest thing, but none were found when the Planning Board came out and inspected, and it seemed to me at the time, I couldn't develop it because it was plain wetlands where as if it had been pristine wetlands, and I found something that was rare, I could have developed, so it was like the opposite.

Attorney Polidoro: A flexible subdivision, right?

Mr. Dacheille: Right. And they were looking for pristine wetlands so I could develop it, but because I had plain ordinary wetlands, I couldn't, so as far as the issue of crossing the wetlands, my next door neighbor is fully developed and they got a permit and when I had the wetlands marked, the guy who marked it said it wouldn't be an issue at all because my next door neighbor already had a permit and they did their installation 50 feet apart from where I was looking to do mine, so it's not like it's going to be an out-of-the-blue rarity, it's already been done 50 feet away from where I'm looking to cross it, so I was told that that wouldn't become an issue. I understand that would have to be done if it is over five years old, but I don't think that's the problem.

Co-Chair Wylock: You were before us back in 2006.

Mr. Dacheille: Right. I gave up for a couple of years and then got my wind back.

Co-Chair Wylock: We had discussed setting escrow. Do you think it would be appropriate to set a minimum escrow now for Mr. Dacheille to cover your expenses thus far and then if he goes to the ZBA and is successful and comes back, then we can re-adjust the escrow to cover your expenses? If it goes before the ZBA and looses, then you'll be covered for your expenses and the case closed. What would be a fair amount for the three consultants?

Planner Ley: \$600.

Co-Chair Wylock: I'll ask for a motion to set escrow at \$600.

Motion made by Member LaRobardier to set the escrow for Dacheille Subdivision at \$600.00 2nd by Member Muroski

VOTE: CO-CHAIR DAVID WYLOCK – AYE

MEMBER JOHN FILA – absent

MEMBER JAMES JOHNSON - NAY

MEMBER MICHAEL VILLANO – AYE

CO-CHAIR VALERIE LAROBARDIER- AYE

MEMBER BRIAN KELLY - Abstained

MEMBER PETER MUROSKI - AYE

Motion approved

Attorney Polidoro: The resolution doesn't contain a recommendation, but if you would like to recommend it, we can just add it in a sentence or phrase that says the Planning Board recommends approval, but I didn't want to do that without discussing it first.

Co-Chair Wylock: What's the Board's feeling on that?

Member LaRobardier: It's only less than 1/2 an acre away of being large enough; I think we should recommend it.

Member Kelly: I would send the ZBA that that's their call, it's not my call.

Co-Chair Wylock: I wouldn't recommend making a recommendation at all; it's their jurisdiction.

Member Kelly: If it doesn't meet the criteria now, by rights it should throw it out, that's my feeling.

Co-Chair Wylock: And then we set precedence in the future.

Member Kelly: If it doesn't meet the zoning, unfortunately, when the zoning was done, he had a chance to argue with that.

Co-Chair Wylock: It's their job to make that decision, not ours.

Member Johnson: I agree with both you and Brian, I just want to ask because I thought the Zoning Board made the decision, I've never heard of giving them recommendations.

Attorney Polidoro: They do make the decisions, so normally to go to the Zoning Board of Appeals you need some kind of a denial from the Building Inspector, but in State law, there's a section that says if someone comes to the Planning Board and their application doesn't meet requirements, the Planning Board can send them to the ZBA without going to the Building Inspector or Code Enforcement Officer first. It also says that with the option of a recommendation.

Co-Chair Wylock: We have never given a recommendation as long as I've been on the Board.

There were no other comments.

Co-Chair Wylock: I sympathize with you, it's so close to being there, but it isn't.

Mr. Dachille: Again, I've lived there 20 something years when the zoning change was done for that area, nobody was notified that anything was going to change whatsoever. At the time, I'm sure they didn't even have half the people's addresses up there to notify them; the re-zoning, I believe, was done about 8 or 9 years ago or 1987, 13 years ago, and at that point in time, the population up there was probably half of what it is now. I've been there for 20 something years, I don't know if 13 years ago they would even know how to get in touch with me to notify me. Yes, there were probably things listed in the paper, but as far as individuals, no.

Co-Chair Wylock: We have a resolution here referring the application to the ZBA; did everyone have a chance to review it? He then read the resolution.

**RESOLUTION REFERRING APPLICATION TO THE ZONING BOARD OF APPEALS
DACHILLE CONVENTIONAL SUBDIVISION**

May 3, 2010

WHEREAS, the applicant, William Dachille, has submitted an application for approval of a conventional subdivision plat to create a 1.5 acre lot and a 4.48 acre lot from an existing 5.98 acre lot located on 51 Dugway Drive, Pawling, Tax Grid No. 6959-00-383093 (the "site"); and

WHEREAS, the site is located on the boundary of the SR and RC Zoning Districts which require a minimum lot size of 1 acre and 5 acres, respectively; and

WHEREAS, the layout of the proposed lots is such that one lot is proposed to be located in each Zoning District, but the lot located in the RC Zoning District does not meet the minimum lot size of 5 acres; and

WHEREAS, pursuant to Section 277(6) of the New York State Town Law, where a plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning law.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby refers the application to the Zoning Board of Appeals for consideration of an area variance pursuant to Section 277(6) of the Town Law.

Motion made by Member LaRobardier to adopt the resolution as written 2nd by Member Johnson

VOTE: CO-CHAIR DAVID WYLOCK – AYE CO-CHAIR VALERIE LAROBARDIER- AYE
MEMBER JOHN FILA – absent MEMBER BRIAN KELLY - AYE
MEMBER JAMES JOHNSON - AYE MEMBER PETER MUROSKI - AYE
MEMBER MICHAEL VILLANO– AYE

Motion approved

Mr. Dachille: If I go to the Zoning Board, if the Zoning Board says you can get a variance for this, feelings from the Planning Board as far as, if I get a Zoning Variance, can the Planning Board still say no to this?

Co-Chair Wylock: We would still have to approve the site plan, we can't make any other commitments whether it would or not.

Mr. Dachille: Yes, but it still has a potential to be knocked down even if I get my variance?

Co-Chair Wylock: Take one step at a time.

Mr. Dachille: Will drop off a check to Betty-Ann.

GARDNER HILL SUBDIVISION- 7260-00-089448

Applicant Janet Pickering Plans prepared by Brian Houston of Bly and Houston, LLP
Property located at 30 Old Forge Road, Wingdale
Application to subdivide a 101 acre parcel into 3 lots in the RC district within the Flood Plain, Stream Corridor and Aquifer overlay districts

Presenting for this application- Brian Houston of Bly and Houston, LLP.

Mr. Houston: Janet Pickering owns 101 acres of land on Old Forge Road and she's looking to subdivide two new lots for a total of three. One lot would contain her house and barns and then they would be developing two new lots on the property. One lot would be 11 acres and the other lot would be 75 acres. The 75 acre lot would be a flag lot and we're proposing for a common driveway entrance to service both of the new proposed lots and we've already met with the Highway Superintendent, and she was agreeable to the location and site distance and such. The property is under conservation easement already and is very heavily restricted. This piece in the back of it goes all the way up to the top of the mountain right on the New York/Connecticut border, none of the steep slopes or anything is being developed, it's all protected by DLC conservation easement on the property.

Co-Chair Wylock: You say it's all under conservation easement, the entire property?

Mr. Houston: She is permitted to do what she is doing here, she could actually do four lots in her agreement with the Dutchess Land Conservancy, she is proposing to do three, but she came up with the agreement. I will provide you with 12 copies of the agreement. I am planning on after we get a little further ahead with the process of going to the DLC, they're aware of this application, and having them write a letter to the Board.

Engineer Zerfas: The existing SDS and well should be shown on the plans, you need to demonstrate all the lots are buildable on the map, if there are any wetlands, it says there are wetlands on the site, even if they're not DEC, they should still be shown within the area that's going to be developed.

Mr. Houston: We wanted to come in to get a little bit of a good feeling of the Board before we went any further with the application. There is a small pocket of Federal wetlands that has been flagged and located already; there is no State wetland on here, so we will be showing that on the next submission.

Planner Ley: Have you conducted any habitat surveys of the property?

Mr. Houston: We have not.

Planner Ley: There is probably the potential for timber rattle snakes and if there are wetlands, there might be some others.

Mr. Houston: The only area that the wetlands are going to be close to Federal wetlands, there is already an existing link-way there that has been used for farming for years and that's going to become the driveway, not part of the common driveway, just part of the single residence driveway, so there was a culvert there 20-30 years ago, but it is no longer there so we're not roughing in a new driveway, I think we're constructing about 200 feet of new driveway on that lot and the rest of it is going to be using the existing lane there, so we're not going to be impacting any part of the wetland.

Planner Ley: You should still contact the NY Natural Heritage Program to see what comes up.

Mr. Houston: We'll send them a letter.

Attorney Polidoro: We would like to see that area of the conservation easement on the plat. I don't believe we've outlined it on this.

Mr. Houston: In the back of the document, the conservations easement, there is a 400 scale, would that suffice?

Attorney Polidoro: Can you overlay it on your plat?

Mr. Houston: I certainly can.

Attorney Polidoro: We were going to suggest that the Planning Board just notify Dutchess County Land Conservancy that there was a pending application, because it is a private agreement between the two land owners, but just to keep them on notice that there was something pending.

Mr. Houston: They know that this is coming about after I went through the first meeting; I'm going to sit down with Jim Sherry who is a part of the DLC and go over this because I'm planning on providing the Planning Board with a letter that this is acceptable to them.

Attorney Polidoro: Right, so I guess at some point when we circulate out to our agencies, fire departments, or whoever we circulate to, I would suggest that we just send DLC a courtesy copy just to keep them on the list. If you're going to supply the conservation easement, that's great. There's also an easement from Iroquois.

Mr. Houston: The gas line comes through here.

Attorney Polidoro: We would just like to see it to make sure that they don't have some exclusive right because that is going to be your entrance to one of the lots.

Mr. Houston: They use that farm lane as it exists now to their access in the back and we will be developing that into a better driveway.

Attorney Polidoro: We just want to make sure that you actually have legal access and that they're not going to come and prevent you from accessing it.

There were no comments from the Board.

Motion made by Member Muroski to set escrow for \$1,500.00 for the Gardner Hill Subdivision 2nd by Member Kelly

VOTE: Co-CHAIR DAVID WYLOCK – AYE

Co-CHAIR VALERIE LAROBARDIER- AYE

MEMBER JOHN FILA – absent

MEMBER BRIAN KELLY - AYE

MEMBER JAMES JOHNSON - AYE

MEMBER PETER MUROSKI - AYE

MEMBER MICHAEL VILLANO– AYE

Motion approved

Mr. Houston: I have a question for the engineer. The floodplain zone, is in the road, it runs kind of right down the middle of the road out here and we're going to demonstrate a grading plan for a common driveway, does this plan need to be tied into the current maps? It's not on the site.

Engineer Zerfas: If it's shown with the FEMA maps, then it doesn't enter your site.

Mr. Houston: It's right up front with an overlay. It's in the road. The only reason I'm asking that is because the closest one to there no longer exists, it has to come from a long way in. The only way you're getting in here is with a GPS; I was going to run to it, the closest one was probably two miles away.

Engineer Zerfas: Why don't you show what you have and then I'll revisit it when we see what you've given. You can something to us.

Mr. Houston: The only problem is if I give it to the engineer, he starts going ahead and it's on one dowel, we'll be switching.

KUNZELMAN:

Co-Chair Wylock: Victoria, do you have anything you want to discuss on Kunzelman?

Attorney Polidoro: Did everyone get an opportunity to view the memo I sent around? I sent it, I'm not sure Betty-Ann had a chance to forward it, so I started forwarding it. Basically, we've come to the situation where the applicant can't move forward without either amending his subdivision plat or finding a conservation organization, a land trust, to accept the conservation easement; under our Code, that's a requirement. So I did send a letter to the applicant's attorney stating such and I haven't heard back yet. In the meantime, if they either reduce the lots or if they find the conservation land trust, they have submitted a list of restrictions on the open space area, and I don't know if everyone remembers the application, but there was an eagle sighting, so some of the trees were important for eagle nesting and there were other important habitats, so I guess I can get the list out to all the Planning Board members so you can review the restrictions and make sure that this is consistent with what you had in mind for the open space. Whether or not they can use motorized vehicles, or bicycles or walking paths and those kinds of things.

Co-Chair Wylock: If she can't get anybody to take the conservation easement, can she retain ownership of that property herself?

Attorney Polidoro: A conservation easement, if someone owns a piece of property and they have an easement on their property, they still own the underlying piece, so in all cases, she was going to be responsible for the underlying piece unless she got someone to take the whole parcel. If the idea is that you still want someone to pay taxes on it, you still want someone to take care of it, the conservation easement basically strips the development rights off the property, it just prevents someone from being able to develop it. So, the land trust basically buys the development rights from the landowner. In this case, we're requiring them to donate them, so her owning the property isn't going to help the situation. She can reduce it by one lot and then she can put a deed restriction on it under our Code.

Co-Chair Wylock: Has she tried to get someone to take it, do you know?

Attorney Polidoro: Her attorney indicated in his letter that he's contacted two organizations, but they did not submit any rejection letters or evidence that they've done that. I guess we can ask them to come in if you want to talk to them. Otherwise, I'll assume we'll get a letter back at some point.

Co-Chair Wylock: Your memo is April 29th; it's not that long ago. We can just carry it over to see if we can get a response.

Attorney Polidoro: I will take this opportunity to again stress that when we're going to do these conservation subdivisions or open space subdivisions where we're going to require the applicant to create an open space parcel, that we should get the land trust involved from the beginning so that the land trust can tell the applicant, these are the important features that we would like to see, this is what we're looking for so that when after they put all the money into engineering and house sites and planning, that they have a plan that actually works, because right now they've had an engineered plan

which no one will accept because there are open spaces on two separate sides of the road, it's probably too close to some residential lots, there may be encroachment by the land owners and that kind of thing, so we should try to be firm in the future and not getting land trust involved early on.

Co-Chair Wylock: We have a resolution here on Meadowbrook Estate subdivision. Does everyone have a copy of it? This is in reference to an e-mail from Betty-Ann requesting an extension from May 8, 2010 to November 8, 2010.

RESOLUTION TO EXTEND TIME IN WHICH TO SUBMIT A FINAL PLAT
Meadow Brook Estates Subdivision

May 3, 2010

WHEREAS, on November 8, 2007, the Planning Board granted preliminary plat approval to the subdivision entitled "Meadow Brook Properties, LLC" for property located on New York State Route 22, Tax Parcel No. 7063-00-511774 (the "site"); and

WHEREAS, pursuant to Section 125-8(A) of the Dover Code, a final plat must be submitted to the Planning Board within six months of preliminary plat approval; and

WHEREAS, the applicant was not able to submit a final plat for the Board's consideration before the expiration of approval and three 6 month extensions of time; and

WHEREAS, by letter dated April 30, 2010, the applicant has requested an additional extension of time in which to submit a final plat from May 8, 2010 to November 8, 2010; and

WHEREAS, the Planning Board has, in its discretion considered the circumstances of the applicant which warrant an extension thereof.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Town Law § 276(5)(h), the Planning Board hereby grants the applicant a 6 month extension of time to submit a final plat for the Board's consideration to November 8, 2010.

It is the responsibility of the applicant to track the time frame within which this extension of approval will expire. There will be no written or verbal notification to the applicant from the Planning Board office prior to the expiration of this extension of the approval.

Motion made by Member LaRobardier to accept the Meadowbrook extension resolution 2nd by Member Villano

VOTE: Co-CHAIR DAVID WYLOCK – AYE	Co-CHAIR VALERIE LAROBARDIER- AYE
MEMBER JOHN FILA – absent	MEMBER BRIAN KELLY - AYE
MEMBER JAMES JOHNSON - AYE	MEMBER PETER MUROSKI - AYE
MEMBER MICHAEL VILLANO– AYE	

Motion approved

Co-Chair Wylock: The resolution is passed. 22 West was supposed to come in tonight just to make a presentation, he's not here. We've had an application here before, so it's been time since he's made some changes.

MINUTES: 4/5/10 & 4/19/10

We have minutes from April 5, 2010 and April 19, 2010 to approve.

Motion made by Member LaRobardier to approve April 5 & April 19, 2010 minutes 2nd by Member Muroski

VOTE: Co-CHAIR DAVID WYLOCK – AYE	Co-CHAIR VALERIE LAROBARDIER- AYE
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MEMBER JOHN FILA – absent
MEMBER JAMES JOHNSON - AYE
MEMBER MICHAEL VILLANO– AYE

MEMBER BRIAN KELLY - AYE
MEMBER PETER MUROSKI - AYE

Motion approved

Co-Chair Wylock: The motion is carried. The final note have here is Ashley's note in reference to Cricket Valley.

Planner Ley: We have received from the DEC today the DRAFT Scope for public comment, so the public scoping sessions are going to be in June and the end of the public comment period is June 18 for the written comment period, so the Planning Board has two meetings between now and then to prepare comments on the Scope.

Co-Chair Wylock: Are there copies of the document available?

Planner Ley: I believe that they were delivered to the Town Clerk's office today and they're going to be posted on the Dover Website.

Co-Chair Wylock: Have you seen it?

Planner Ley: I've only seen what was e-mailed today and I forwarded that to the Board.

Co-Chair Wylock: I assume we'll get a copy of it.

Planner Ley: We should get one from DEC.

Attorney Polidoro: Should this be on the Agenda for two weeks from now?

Planner Ley: I think so, to discuss it and then to prepare a letter from the Planning Board to DEC.

Attorney Polidoro: That would give us enough time to look at it and do a letter the next evening.

Planner Ley: The dates are June 9th and we have until June 18th to comment, so we can discuss this preliminary two weeks and then at our June meeting, also. If there is no further business, then I'll ask for a motion to adjourn.

Member Johnson: I think we should talk about escrows. I just think with, we've talked about this more times that we have said not to review anything until we have escrows. We had two tonight, one I don't believe with a little bit of work maybe the Building Department, it could have been referred back to the Building Department to see what was going on in the Building Department could have even given them a referral to the Zoning Board, on Dachtile, where it's got to go to the Zoning Board. This Town, we've talked about this, Victoria you know, Brian knows, I know, David knows, this Town has sucked up more fees from people that haven't paid in the last ten years than I even care to say. Right now tonight with Lavish and Dachtile, they might not even come back and there's \$600 gone that actually, \$1,200 gone, which could have been \$2,000 gone if you each spent an hour more on it, that would have been \$2,400 that the taxpayers have to suck up, and I really don't think that's fair, the first night is supposed to be just listening to the people, how many ones have we had for a couple thousand dollars in the past?

Member Kelly: The thing that I would like to know is if it's legal to back charge for escrow. Is it legal to do that? I think you're going to find out that it's not because I think it's been discussed in the past.

Attorney Polidoro: I think there's a few options because, obviously the tension is that the Board does want to move applications forward in a timely fashion, so rather than have these people come in and then just merely set escrow and then have them come back next month where we can start talking about the application.

Member Johnson: I thought the process was, first you come in and talk about it and discuss and present your stuff. To me, to look at the "Lavish" application or Dachtile's, I'm not trying to be rude here; I really don't know what you guys looked at for an hour. And I shouldn't even say that, but we could have sat here at the table and looked at it for five minutes and all come up with the same answers. Isn't that what the monthly retainer is for also?

Engineer Zerfas: We don't get a monthly retainer.

Attorney Polidoro: There are all different arrangements. Actually, I misspoke, anything that I would bill, let's say I reviewed Dachille and he decides not to come forward, we eat that.

Member Johnson: Well, we've eaten stuff in the past.

Attorney Polidoro: I can't speak for the other consultants, I don't know their arrangements.

Member Johnson: But it could have easily been, it was a little bigger of an application and the person came in and you said, "by our zoning, we can't do it" and you've spent two hours on it, it could have been \$2,000 shoved off to the taxpayers.

Attorney Polidoro: Right, so again, there's this tension of, should we come to the meeting having review that or should we not and I think there's two or three options. The first one is to amend the law so that we can collect escrow with the application fee, so that as soon as the application comes in, that's what a lot of towns are doing now so that it's almost a requirement with the application that some initial money comes in, it's usually set on size of the application and I did do a memo on the fee schedule and that was one of my comments was that we should have an escrow provision, so let's say all site plans under 1,000 square feet, "x" amount of dollars, up to 50,000 square feet, "x" amount of dollars, and it's just a starting point, so that everyone can start reviewing it. Second option, is that the Planning Board can have a special meeting once a month just to set escrow quick, but that's just getting around the time. Third is that you can ask us not to review the applications until the second meeting until escrow has been set.

Member Kelly: Like I said before, I would like to see if it's legal that you have reviewed an application, then we set escrow, and then we take the money from them after you have reviewed then, but we haven't set that escrow to take that money that you've already reviewed the application, so I don't believe that's legal to do that.

Planner Ley: The fourth option, which would address your comment right there, is if you made the initiation fees high enough that there wouldn't be escrow fees, but it would be a fee that would be high enough to cover on average the consultant's expenses.

Member Johnson: On the initial application, you guys have done this long enough, you can sit at a meeting just like us and

Planner Ley: There's a combination of things that go into the initial cost, we have the staff conference calls, there's an average of 10-15 minutes per application, there's the time we spend at the meeting, and then there's the time we spend looking at the project.

Co-Chair Wylock: Who sets the escrow at the ZBA when we give you an application, how does that work?

Secretary O'Leary: Right now, we're just doing a flat \$100 escrow fee, we don't have consultants, our attorney is strictly retainer, so should we go to a meeting and we decide we want to send it to an engineer or a planner, then we already have that \$100 escrow for it, if we need more, we will ask for more, but we just haven't come to that yet where we need more, and honestly, they end up getting it back because all we have is our attorney, he reviews it and he's on a retainer.

Co-Chair Wylock: Could we set a procedure up without Town Board approval that we require them to submit "x" of dollars?

Secretary O'Leary: We had to get it approved by the Town Board.

Co-Chair Wylock: Has everyone seen Victoria's memo on the fees? I have one, I'll get Betty-Ann to make copies for everyone.

Member Kelly: Who's going to give me the answer that I asked?

Member LaRobardier: We have to move forward to this and come up with a procedure that will work in the future and I think if you guys, it was my understanding that sometimes you have pre meetings with, the whole idea is to try and move things along, so if you're going to be sitting down with people before we even have a meeting and saying to them, "well, you know, this is your check list, this is the direction you should go in," then I think is appropriate to have a pre...

Co-Chair Wylock: The other option is to have them come in here cold.

Member Johnson: I think our zoning says the first meeting is

Attorney Polidoro: I think it depends on the type of application

Member Johnson: The other thing is, just like here with Lavish, what did you guys talk about in your conference call besides, we read this, let's bring him in to see what he's doing. Basically, as a taxpayer, I don't think the possibility of hitting the taxpayers for thousands of dollars is a great option.

Member LaRobardier: We're not talking about that, though, we're talking about whether or not you want to do the escrow, you want to have the applicants come in cold and have to wait a whole month, but while their escrow is set, that's one option, which doesn't hit the taxpayer up, and the other option would be to ask for a small escrow up front so that it could be discussed before they come in here, which also would not hit the taxpayers.

Member Johnson: We can't do that, it's not legal.

Attorney Polidoro: We could do it, but it might require an amendment to the Code.

Co-Chair Wylock: The simplest thing to do here number one, get an opinion for Brian if what we're doing is legal or not, the second thing, is any applications that come in, we have the people come in here cold and you'll get it just like we do, in the drawer, and we'll read it for the first time that night and we'll set escrow at that meeting. The only thing, we have our conference calls to try to finalize and set up the agenda and the only thing we'll do on them is to say, "they're on the agenda, they're coming in for the first time," and we'll discuss people who are already on the agenda from previous meetings, the first time they come in here will be the first time any of us talk about it and we'll set escrow that night, how does that sound?

Member Muroski: That's not going to speed up the process.

Member LaRobardier: Are you doing away with the pre-approval cost, the pre-introductory meeting with the application?

Member Kelly: If you're doing two lots or something, you don't need a pre-meeting. If you're doing Dover Knolls, yes, there should have been a pre-meeting, but this isn't Dover Knolls that we're talking about on any of these.

Co-Chair Wylock: The small applications, that will be done right in the office with Betty-Ann and she's not going to make final decisions, but she can guide people through the process.

Attorney Polidoro: I'd just like to clarify, too, just how it's going on. I know me, personally, I get a retainer, which covers my attendance at the meetings, and maybe some extra phone calls with Betty-Ann throughout the month, just quick procedure questions. Anything that goes above and beyond that, we kind of eat up every month, so it's not like there's enough in there for us to do the initial review for each application, so I just wanted to make that clear.

Engineer Zerfas: And I found out from Scott, we do get a retainer for this meeting but we don't get a retainer for anything else.

Co-Chair Wylock: I don't think we've been stuck recently at all; I don't know of any applications that the taxpayers had to eat any of the consultant's fees recently.

Engineer Ouimet: I believe it goes the same what she said, at our company, if the town were to get stuck, we don't go after the town citizens, we eat that.

Member Johnson: No, you just put in a bill and we pay it.

Member Kelly: Does everybody know the question that I'm asking? Is everybody clear what the question that I'm asking about the escrow?

Co-Chair Wylock: I know what you're saying.

Attorney Polidoro: You're asking whether escrow, once it's set, if people can put charges that occurred before the setting of the escrow.

Member Kelly: Exactly.

Attorney Polidoro: I understand your question.

Member Johnson: Do you know the answer?

Co-Chair Wylock: She's not going to say so tonight. Go back and discuss it with your associates. We're not going to put you on the spot here.

Engineer Ouimet: I know it is typical for other towns to have an escrow set that you have to pay no matter what.

Member Kelly: So, the town law should be changed.

Engineer Ouimet: That was recommended to the Town Board and they did consider it, but they didn't feel they had enough time to review it and make a decision on it at the meeting.

Co-Chair Wylock: So in the interim, why don't we do just we have discussed that people come here for the first time and then we will set escrow and you won't review anything until they come in here. Should we do that by motion?

Attorney Polidoro: No, we don't need a motion. Can we clarify though? There's going to be cases where the Board sets escrow, then either the applicant decides not to proceed or not to submit the money, should we wait until they actually submit the money?

Member Kelly: There should be nothing done until the money is submitted. We've discussed this many years that I was on the Town Board because we did get stuck thousands of dollars in the past.

Member Johnson: It's even been that if the escrow is; say somebody comes back this week and the escrow isn't up to date, they are not on the Agenda, they don't get discussed; because all of a sudden, they get an answer they don't like, they walk away and they have 4 or \$5,000 owed in escrow, we're stuck.

Attorney Polidoro: Maybe we should talk about some sort of procedure so we can get notified when escrow has been submitted.

Co-Chair Wylock: What do other towns do?

Attorney Polidoro: In other towns, they collect it up front. They do it individually, there's a certain amount for the attorney, the planner, the engineer, the traffic consultant, and then everyone keeps track of how much they're billing against their individual amount.

Member Muroski: And that depends on the scope of the job?

Attorney Polidoro: In the Town of Hyde Park, for instance, they have a very detailed schedule, so if it's from two to five lots, it's a certain initial amount for each of the consultants; if it's from five to fifteen, it's a different initial amount.

Member Muroski: That makes sense because you can just hand them a sheet and say this is what you want to do, this is what you have to pay, and then we'll see you at the next meeting.

Member Johnson: There's even been trouble in the past that we've had an applicant here, let's say a bigger application, and they're going between us and the Zoning Board and everything else, to speed up. All of a sudden we've got ahead, they haven't been keeping their escrow up to date, they owe \$3,000-\$4,000, they get an answer from the Zoning Board that says basically no, and guess where the \$3,000-\$4,000 goes?

Member Muroski: Then they shouldn't get answers until we get that money.

Co-Chair Wylock: We have one applicant right now who has before the Board for the last 5 or 6 years and they haven't been getting on the Agenda until they made up the deficiency on their escrow, which they have done, so they will be on for June, but he was told that he is not going to get back on the Agenda until he brought his escrow back up to where it should be.

Member Muroski: Why isn't everybody handled that way, or is everybody handled that way?

Co-Chair Wylock: They are.

Member Johnson: It's gotten a lot better. But it could happen today if someone came in with a big application and everybody there spent six-eight hours looking at it, so that can be \$3,000-\$4,000. All of a sudden, you can't do this because of "x, y & z" they go back and think about it and say OK, now we're not going to hand in the escrow check tomorrow, and we're done.

Co-Chair Wylock: I know what you're saying, but that hasn't happened here recently, though.

Member Johnson: Not recently, but the Planning Board hasn't been busy recently, either.

22 WEST PROPERTIES-7059-04-716410

Applicant John Kalin, P.E.

Property located @ Rt 22 and Rock Hill Road, Wingdale

Application for site plan SUP & Erosion Control to construct 2 commercial buildings on
3.785 acres of vacant land in the HC District

8:40 pm: John Kalin representing 22 West Properties arrived.

John Kalin, DC Engineering: I'm here tonight representing 22 West Properties, we were before some time ago, I believe it was in 2008. The purpose of the site plan is to consider developing a current vacant piece of land into a commercial use with the installation of two 5,000 square foot contractor-type storage buildings. Access would be made from existing property easement, sorry, I take that back, it's a piece of a property that will be annexed to the main parcel, with frontage directly on Route 22, everything is designed to have cubical storage inside the building, so it's really just some parking spaces on the outside for the contractor to use during the day. We are going to provide septic services out in the back as the well is sited up here on the side. The last time we were before the Board, I believe, we had gotten some comments; I didn't want to address any of those tonight, because, again, we haven't been before the Board in quite some time, so I wanted to bring back the original plan to refresh everybody's memory. We have done work on the plans. We are on Route 22, down almost across from Southeast Auto Recycling in the Southern part of the Town. Metro North is behind us. As you drive by the place, there's a rock out front, which at this time is hidden behind vegetation, so you really don't see what's going on here, in fact, when we develop the site, there's hardly a chance you'll see the buildings themselves because they are set back far enough away from this grade change that you might see the peak of the roof, or something like that, it's a pretty self-containing site. Even from the neighbors here, we're proposing that there's some cutting to get down to the plateaus, so there's 8-10' of elevation difference from these houses above us down into the bank. Behind us, the grade slopes back to the train tracks. There is one house here adjacent to us, and then other properties.

Member Kelly: You first started out with one building, and then you added two, didn't you?

Engineer Kalin: We looked at different layouts and I think we've gone away from the one building because of the size of it with the elevation changes on the property, it really wasn't contusive unless you were going to take 20' of the hill off, but that wasn't practical so it will give us a little more flexibility with a small retaining wall between them. There was even a time when we were looking at future stuff here, but that's really not part of this application anymore, we're just looking at the two buildings.

Co-Chair Wylock: This is commercial storage for contractors?

Engineer Kalin: Yes, contractor storage. Basically, it's for the "mom and pop" type contractors that run a business out of their house to get the nonconforming uses out of the residential neighborhoods and bring them into a place like this. Inside the building will be partitioned into 20' segments or more; typical overhead 12' x 12' garage door with a door on the side of it. The buildings are 50' x 100' to fit them into the topography with minimal disturbance. One thing we have looked into subsequent to our last meeting was DEC wetland check zone, we had the DEC delineate something that's way over in the corner, I have plans that show that, again, next time we come before the Board a lot more developed plan as well as all the topography for the intersection and the small piece of property, which will be annexed. The wetland is on the property but it's up here in the very corner of it, I have the delineations.

Member Kelly: That sits on a high piece of property then it goes down to the railroad tracks then you go into the wetlands.

Engineer Kalin: Right, basically its proper wetlands on the other side, this is just kind of a low area. We're clear far away from all of that. If we get into, obviously, for the development, we'll be looking for filtration-type systems for storm water management and some rain gardens in the parameter over the side. Any screening that needs to be done will be addressed as we get further along. With the buildings down much lower than the houses above, I think it's going to be much less of a nuisance than if it were the other way around.

Member Kelly: Weren't you putting little offices inside those spaces too?

Engineer Kalin: There's potential for it; it's really going to be leased out as a 20' bay and there will be individual action by the tenants, like a Planning Board thing if they want to put small office space or something like that, but these are just designed for the garage door and a side entry door.

Attorney Polidoro: Are you putting in three buildings or two.

Engineer Kalin: Only two; there was talk about another building at one time, but I took that off.

Attorney Polidoro: You haven't withdrawn your old plan; it just took you a long time to come back.

Engineer Kalin: Exactly. I have a lot of current information about the project, but to bring that in tonight, some of the Board members have never seen this before, so I just brought this one back to re-introduce the job and then move forward in the next few months.

Co-Chair Wylock: When do you imply when you're coming back?

Engineer Kalin: I'll talk to Betty-Ann about it, probably in the next month. We've got a lot of information here, we've met with the DOT about what they need, the Heath Department is pretty much all taken care of, the DEC has been handled, and we've got those wetlands delineated. I guess one thing I want to bring up tonight is the discussion we had about the subdivision or the annexing of the two lots is there an action you want us to take currently with the site plan or is this something we need to do ahead of time. We'll have the surveyor direct that, we've got the topographical meets and bounds, all that stuff is signed and sealed, so I can just have them move forward with that.

Attorney Polidoro: Yes. You can have the public hearing together.

Engineer Kalin: The DOT is pleased with what we're proposing to do, they have no issues with it, enormous amounts of site distance and it's right on grade, there aren't any steep slopes in here or

anything encroaching 3%, so they just want to see the intersection opened up and perhaps and replace some of the existing drainage pipes, there's a few in there that are buried in about 3' of sediment, we'll look into that as we move forward with them.

Member Kelly: You're coming off the private drive with that?

Engineer Kalin: Yes. Our frontage is actually a long way along, but for convenience we felt it was better to open this up and utilize that existing curb cut. Just to the North of the curb cut, there is a guide rail and a drop that goes down to the head wall. I spoke with the DOT about encroaching into their area for grading and reshaping purposes and they felt that that was prudent and would make a better intersection if we conjoined with what is already there.

Attorney Polidoro: You were going to provide us with some kind of permission to use this private driveway.

Engineer Kalin: Yes. Like I said, we'll understand who the owners of that are and see what our rights are actually with use of it. Historically, my clients use this road since he's owned the property and I don't know if that precludes from him using it still or improving it, but we'll seek permission.

Attorney Polidoro: Sometimes you can use easements for a single-family home, but not necessarily for large commercial use.

Engineer Kalin: We'll have answers for all of that.

Co-Chair Wylock: I'll ask for a motion to adjourn.

Motion made by Brain Kelly to adjourn @ 8:50 2nd by Peter Muroski

VOTE: Co-CHAIR DAVID WYLOCK – AYE	Co-CHAIR VALERIE LAROBARDIER- AYE
MEMBER JOHN FILA – absent	MEMBER BRIAN KELLY - AYE
MEMBER JAMES JOHNSON - AYE	MEMBER PETER MUROSKI - AYE
MEMBER MICHAEL VILLANO– AYE	

Motion approved

Respectfully submitted,

Maria O'Leary &
Betty-Ann Sherer

This meeting may be viewed in full on the Town of Dover web site by going to www.townofdoverny.us

Full Audio may be requested for a fee by completing a FOIL request form from the Dover Town Clerk
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Please call the Planning Board Office with any questions 845-832-6111 ext 100