

Town of Dover Zoning Board of Appeals

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



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(845) 832-3188 fax

Wednesday
November 2, 2011- 7:00 PM

- Chair Marilyn Van Millon
- Member George Wittman
- Member Anthony Fusco
- Member Debra Kaufman
- Member Henry Williams

Also in attendance were Paul Agosta & Peg Day for Agosta Pole Barn, Michael Segelken Dover Building Inspector /Code Enforcement Officer & Zoning Board Attorney Michael Liguori

1. CALL TO ORDER

The regular monthly meeting of the Town of Dover Zoning Board of Appeals was called to order by Chair Van Million at 7:08 pm and began with the Pledge of Allegiance

Applications for Review

2. PUBLIC HEARING- AGOSTA POLE BARN- Z-2011-006

Applicant Paul Agosta Tax Grid: 7161-04-772100
Property located at: 181 Weil Road, Wingdale, NY on a 3.6 acre parcel in the RU district. The applicant seeks to appeal Section 145-14(D) of the Town of Dover Zoning Law to erect a pole barn on his property within approximately 21 feet of a stream.

Site photos were taken by Mike Segelken and distributed to the Board

Motion to open the Agosta Public Hearing made by Member Wittman; Second Member Williams

Vote:

Chair Van Millon - <u>Aye</u>	Member Fusco - <u>Aye</u>
Member Wittman - <u>Aye</u>	Member Williams - <u>Aye</u>
Member Kaufman - <u>Aye</u>	

Chair Van Millon read the Public Hearing notice

Paul Agosta approached the podium and was sworn in by Chair Van Millon

Mr. Agosta- Would like to erect a pole barn, and has sketched the location on his survey

Chair Van Millon This barn should be 50' from the stream and is 21' from it?

A: No, it's 29' from the stream and they are requesting a 21' variance.

Board: Asked if it were possible to move the barn, to get it further from the stream.

A: the area is laid out to maximize the space, it maybe possible to move the barn north As it is presented it is 29' from the closet corner.

Board: There seems to be quite a bit of property are there limitations to the property that prevent you from moving the barn. It is understood there were 2 barns on the site which were damaged, lost and removed. If those 2 barns still existed, they would be grandfathered in, but now they are gone, so the new structure would have to be in compliance to today's zoning. If it could be moved to just outside the 50 set back

A: Mr. Agosta-What kind of limitations?

Board: Is there ledge, steep slopes, wetlands or other property restrictions that would prevent you from moving the barn to another location?

A: to the west is a brook; to the east is a large embankment which runs to the top of the property.

Board: Where the proposed barn is drawn, appears to indicate there is room to move the barn.

A: Yes it can be moved north, 21' north is quite a bit, it's hard to see on paper, but the area gets narrower as it moves north.

The Board would need to see how this really fits on the site, and the map is not clear to determine all of the factors involved in the barn and the stream.

Mike Segelken-Building Inspector/CEO - Took photos of the site today.

He reviewed each photo to give the Board better prospective on the site limitations. There are limits to moving the barn north due to the pond.

In the first photo time stamped 12:03 shows a steep embankment to the rear which would be east towards the house.

The map was reviewed with the applicant and discussed the topography of the land and the scale that needs to be demonstrated

Peg Day approached the podium and was sworn in by Chair Van Millon

Ms. Day- the embankments river and pond absolutely contain where the building is going to be. There really isn't much room to make any change there are 2 embankments, the pond and the stream. The barn is really pushed as far away from the river as possible to make it work. The other barn was really on the water.

Board: what is between where the two barns were?

A: The other embankment

Board: It's not flat ground?

A: no

Mike Segelken- To explain the photos:

Time stamped 12:05 - is the only flat surface on the top of the hill, north of the house

Time stamped 12:01 standing looking north toward where the barn is proposed where you can see the bank

Second photo time stamped 12:01 the other side looking at the site from the north

12:02- the very back of the site

12:02 better shot up the stream on the rear corner peg

25-28' to the edge of the stream

The doors would be on the north side

12:03- looking at the stream facing west

Last two photos are if you're looking north towards the pond

Board: The last two photos are you standing more or less where the barn is proposed?

A: (Building Inspector) almost on center of it, you can see the pegs in the ground on the photos.

It appears the marks on the survey are not really done to scale, it's deceiving

A: (Building Inspector) it is in close proximity, that's why he went to the site and took pictures

Board: (to the CEO) - can this barn be moved?

A: (Building Inspector) looking at the property, the only other portion would be a flat spot on the top of the hill; they have revealed they wanted it down near the stream for the horses, for the water. Up on the hill would not be as convenient, up on top would be good paddock area.

Board: with the adjustments that could possibly be making, would that lessen the variance.

A: (Building Inspector) they could slide it a bit to the north and very little to the east, that would lessen the impact to the stream, but they are limited.

Board: The stream is not flagged, so we really can't tell.

A: (Building Inspector) it's not flat close to the water, there's about a 10' drop

Board: Who does the flagging?

A: (Building Inspector) me, by appearance.

Board: without knowing where the line is this is only conjecture.

The area should be flagged.

A: (Building Inspector) they would have to get a surveyor.

Board: Can you flag the 50' line

A: (Building Inspector) ok

Ms.Day- If we did have that point flagged at the rivers edge, we're really only working with a small area in which the building could be placed.

We need someone to make the line and look at possibly re align the barn

Mike Segelken- I can go out to the site again and work with the applicant.

Board: Who regulates the water, is it a DEC water course?

A: (Building Inspector) we do as part of the flood management

Board: But is it a DEC wetland

A: (Building Inspector) it would be regulated as one of DEC's water bodies; it has fish in it.

Attorney Liguori- This would all depend on if this were a DEC stream and if they regulate it. As afar as delineating the stream our code does not make where to measure from. The survey would be the best evidence as to what is out there. The edge of the bank would be the most common point.

With regard to the variance being substantial, just because something is mathematically substantial, doesn't mean it is substantial, the whole application determines that

More importantly would be the questions would it be permitted to allow disturbance to the banks, not the stream bank but the hillside.

If the stream set back, then set the distance from that point.

Ms.Day- I understand, because when we first did the application, that measurement was what we left out and I did get an email asking how much of a variance we were looking for. Now she understands what is really needed.

Board: If the CEO could go out and confirm that information, it would be best. It's hard to get it on paper.

Board: If the CEO goes to the site and re-measures, then we may be looking at less of a variance

Mike Segelken - they are very limited, they can only go north and west to shift the point away

Attorney Liguori- If you can make an attempt to make a "to scale" drawing is the 1" = 50' scale on your survey. What is important is that the Board needs to see what the new barn looks like on the site to scale.

In order to make a better determination the CEO will go to the site and work with the Applicant to confirm the location of the new barn as well as make the survey more accurately.

Motion to continue the Agosta Public Hearing made by Member Wittman; Second Member Fusco

Vote:

Chair Van Millon - <u>Aye</u>	Member Fusco - <u>Aye</u>
Member Wittman - <u>Aye</u>	Member Williams - <u>Aye</u>
Member Kaufman - <u>Aye</u>	

Site walks set up for:

Saturday November 12@ 10:00 am
Tuesday November 15 @1:00 pm

The proposed barn will be staked out

December meeting discussion:

The deadline is November 16, if there are no additional application submitted for that deadline, there is a possibility to move the meeting up so the Applicant wouldn't have to wait until December

3. MINUTES OF JULY 6, 2011

Motion approve the minutes of July 6, 2011 as submitted by Member Kaufman; Second Member Williams

Vote:

Chair Van Millon - <u>Aye</u>	Member Fusco - <u>Aye</u>
Member Wittman - <u>abstained</u>	Member Williams - <u>Aye</u>
Member Kaufman - <u>Aye</u>	

Member Wittman abstained for this vote due to his absence at the July meeting

I. **Adjournment**

Motion to adjourn by Member Wittman; Second Member Kaufman

Vote:

Chair Van Millon - <u>Aye</u>	Member Fusco - <u>Aye</u>
Member Wittman - <u>Aye</u>	Member Williams - <u>Aye</u>
Member Kaufman - <u>Aye</u>	

Respectfully submitted,

Betty-Ann Sherer

Betty-Ann Sherer, Secretary to the Board
PlanningARB@TownofDoverNY.US

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All reasonable accommodations will be made for persons with disabilities. In such a case, please notify Betty-Ann Sherer in advance by phone at 845-832-6111 ext 100 so that arrangements can be made

Please call the Planning Board Office with any questions 845-832-6111 ext 100