

Town of Dover Planning Board

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



(845) 832-6111 ext 100

Planning Board
Monday, May 7, 2012
7:00PM

- Co-Chair David Wylock
- Co- Chair Valerie LaRobardier
- Member Peter Muroski
- Member Michael Villano @ 7:12
- Member Tom Holmes
- Member Nicholas D'Agostino
- Member William Sedor

Also, in attendance representing the Planning Board was Planner Ashley Ley, Attorney Victoria Polidoro & Engineer Berger

For the Applicants: Brian Houston for Dedrick- Hearn Subdivision, Ian Holback & Joe Zarecki for Meadowbrook Subdivision, Harry Nichols for O'Mara subdivision, Theresa Ryan & Don Walsh for Putnam Steel 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 at 7: 05 pm by Chair Wylock and began with the Pledge of Allegiance

Co Chair Wylock took a moment to welcome new members Nicholas D'Agostino & William Sedor; this is their first regular meeting

Public Hearings:

DEDRICK-HEARN LOT LINE CHANGE- 7063-15-554482 & 550474

APPLICANT: Brian Houston for Property owners, Dedrick, Boffelli & Preuss with Hearn
PLANS PREPARED BY: Brian Houston PROPERTY LOCATED: #'s 8, 10 & 12 Mill Street, Dover
APPLICATION FOR: Lot Line changes- exchange of acreage between both property owners, with subsequent of property merging to make each remaining lot less non- conforming in the HM district

Part 2 of the short EAF was reviewed resulting the in the following motion, vote and resolution:

APPROVED

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

MAY - 7 2012

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Jay Dedrick and Michael Hearn		2. PROJECT NAME Lot Line Change prepared for Dedrick Et al and Hearn	
3. PROJECT LOCATION: Municipality Town of Dover County Dutchess			
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 8-10 Mill Street and 12 Mill Street, Dover Plains, NY 12522. Approximately 150' easterly from the intersection of Mill Street with New York State Route 22.			
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration			
6. DESCRIBE PROJECT BRIEFLY: Jay Dedrick Et al will merge the majority of 2 adjacent parcels of land and convey 0.07 acre to adjoining owner Michael Hearn. Michael Hearn will also convey to Jay Dedrick 0.02 acre of land.			
7. AMOUNT OF LAND AFFECTED: Initially <u>0.66</u> acres Ultimately <u>0.66</u> acres			
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: Project is located in an area that has both commercial businesses and residential properties.			
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: Town of Dover Planning Board approval.			
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:			
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>BRIAN HOUSTON L.S</u> Date: <u>3/12/2012</u> Signature: <u>Brian Houston</u>			

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: *NO*

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: *NO*

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: *NO*

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: *NO*

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: *NO*

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: *NO*

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: *NO*

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
 Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination

David Wylock *Dover Planning Board*
 Name of Lead Agency *5/12/12* **MAY - 7 2012**
David Wylock *Chair Planning Board*
 Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer

 Signature of Responsible Officer in Lead Agency Signature of Preparer (If different from responsible officer)

Motion made by Valerie LaRobardier to accept the short EAF 2nd by Tom Holmes

- | | |
|--------------------------------|-----------------------------------|
| VOTE: CO-CHAIR WYLOCK - AYE | CO-CHAIR VALERIE LAROBARDIER- AYE |
| MEMBER PETER MUROSKI - AYE | MEMBER MICHAEL VILLANO ABSENT |
| MEMBER TOM HOLMES - AYE | MEMBER WILLIAM SEDOR AYE |
| MEMBER NICHOLAS D'AGOSTINO AYE | |

Motion approved

**RESOLUTION ADOPTING DETERMINATION OF NON-SIGNIFICANCE
DEDRICK HEARN LINE ADJUSTMENT**

May 7, 2012

8-10 & 12 Mill Street, Dover Plains, NY 12522

WHEREAS, the applicants, Jay Dedrick and Michael Hearn, have submitted an application for approval of a minor subdivision plat to alter the lot lines for three existing adjacent lots in order to convey 0.03 acres of land in exchange for .07 acres and merge three existing nonconforming lots into two nonconforming lots to provide for a safer, wider ingress and egress to the rear parking lot; and

WHEREAS, the proposal is depicted on a minor subdivision plat entitled "Lot Line Change Prepared For Dedrick Et Al and Hearn", prepared by Bly and Houston LLP, dated March 9, 2012, last revised April 10, 2012; and

WHEREAS, Tax Lot No. 542482 will be combined with Tax Lot No. 550474 ("combined lot"), with a .07 acre portion of 55074 to be conveyed to Tax Lot No. 554482, and a .02 portion of Tax Lot No. 554482 to be conveyed to the combined lot; and

WHEREAS, the lot line alteration would increase the conformity of an existing nonconforming side yard setback; and

WHEREAS, no new lots are being created and no new development will result from the proposal; and

WHEREAS, the application was accompanied by a short Environmental Assessment Form ("EAF") dated March 12, 2012; and

WHEREAS, on April 2, 2012, the Planning Board classified the action as an unlisted action and determined to conduct an uncoordinated review of the action; and

WHEREAS, the Planning Board has considered the criteria contained in 6 NYCRR 617.7 and thoroughly analyzed all identified relevant areas of environmental concern.

NOW THEREFORE BE IT RESOLVED, that the Planning Board hereby determines that the Dedrick Hearn Lot Line Alteration will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be prepared.

Moved by: **Valerie LaRobardier**

Seconded by: **Tom Holmes**

David Wylock

AYE

Valerie LaRobardier

AYE

Tom Holmes

AYE

Peter Muroski

AYE

Michael Villano

absent

Nicholas D'Agostino

AYE

William Sedor

AYE

Motion made by Peter Muroski to open the Public Hearing 2nd by Valerie LaRobardier

VOTE:CO-CHAIR WYLOCK AYE
MEMBER PETER MUROSKI AYE
MEMBER TOM HOLMES AYE
MEMBER WILLIAM SEDOR AYE

CO-CHAIR VALERIE LAROBARDIER AYE
MEMBER MICHAEL VILLANO ABSENT
MEMBER NICHOLAS D'AGOSTINO AYE

Motion approved

Joyce Kennedy of Mill Street- Lives next door and has to remove trees between the property, she has concerns with Mr. Hearn’s trees and bushes leaning over her home. She feels when Mr. Hearn had the property surveyed and took away some of her driveway. She does not agree with the trees he planted.

She was advised to consult her attorney, but generally trees on your property can be trimmed by you. She was also reminded that this hearing is about the lot line changes not the trees.

She was asked if stakes were placed from the survey, which she said yes, but she has no survey of her own.

Mr. Houston- The property is on Mill Street, the Dedricks has the insurance business, on the east is Mr. Hearn when surveyed it became obvious that the drive way for the rear of Dedrick- so a lot line change was needed and Dedrick will merge their lots. There are currently three parcels of land ultimately there will be two, the Dedricks will combine two tax parcels into one and combining 200ths of an acres from Hearn and Mr. Hearn will get 700ths of an acre.

It was noted- Mrs. Kennedy’s house is close to the property line, it is ½ a foot away. Mr. Houston will address Mrs. Kennedy’s concerns with Mr. Hearn.

Motion made by Valerie LaRobardier to close the Public Hearing 2nd by Michael Villano

VOTE:CO-CHAIR WYLOCK	AYE	CO-CHAIR VALERIE LAROBARDIER	AYE
MEMBER PETER MUROSKI	AYE	MEMBER MICHAEL VILLANO	AYE
MEMBER TOM HOLMES	AYE	MEMBER NICHOLAS D’AGOSTINO	AYE
MEMBER WILLIAM SEDOR	AYE		

**RESOLUTION GRANTING PRELIMINARY LAYOUT AND FINAL SUBDIVISION PLAT APPROVAL
DEDRICK HEARN LINE ADJUSTMENT**

May 7, 2012

8-10 & 12 Mill Street, Dover Plains, NY 12522

WHEREAS, the applicants, Jay Dedrick and Michael Hearn, have submitted an application for approval of a minor subdivision plat to alter the lot lines for three existing adjacent lots in order to convey 0.03 acres of land in exchange for .07 acres and merge three existing nonconforming lots into two nonconforming lots to provide for a safer, wider ingress and egress to the rear parking lot; and

WHEREAS, the proposal is depicted on a minor subdivision plat entitled “Lot Line Change Prepared For Dedrick Et Al and Hearn”, prepared by Bly and Houston LLP, dated March 9, 2012, last revised April 10, 2012; and

WHEREAS, Tax Lot No. 542482 will be combined with Tax Lot No. 550474 (“combined lot”), with a .07 acre portion of 55074 to be conveyed to Tax Lot No. 554482, and a .02 portion of Tax Lot No. 554482 to be conveyed to the combined lot; and

WHEREAS, the lot line alteration would increase the conformity of an existing nonconforming side yard setback; and

WHEREAS, no new lots are being created; and

WHEREAS, on May 7, 2012, the Planning Board reviewed the Environmental Assessment Form and thoroughly analyzed the information concerning relevant areas of environmental concern and adopted a determination of non-significance under the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, a public hearing was held on May 7, 2012, during which all those who wished to speak were heard.

NOW THEREFORE BE IT RESOLVED, that the Planning Board grants the applicant waivers the following sections of the Subdivision Law upon recommendation of the Planning Board Engineer: Sections 125-17C and 125-17I.

BE IT FURTHER RESOLVED, that the Planning Board grants preliminary layout approval to the Dedrick Hearn Lot Line Adjustment.

BE IT FURTHER RESOLVED, that the Planning Board hereby grants final subdivision approval to the subdivision plat entitled ““Lot Line Change Prepared For Dedrick Et Al and Hearn”, prepared by Bly and Houston LLP, dated March 9, 2012, last revised April 10, 2012, and authorizes the Chair to affix his or her signature to the plat after compliance with the following conditions:

- 1. Payment of all fees and escrow.**
- 2. Department of Health permission to file.**

Moved by: Valerie LaRobardier Seconded by: Peter Muroski

David Wylock	<u>AYE</u>	Valerie LaRobardier	<u>AYE</u>
Tom Holmes	<u>AYE</u>	Peter Muroski	<u>AYE</u>
Michael Villano	<u>AYE</u>	Nicholas D’Agostino	<u>AYE</u>
William Sedor	<u>AYE</u>		

ENTERTAIN REQUEST OF EXTENSION & MINOR CHANGE OF PLAN

MEADOWBROOK ESTATES- 7063-00-511774

APPLICANT: Meadow Brook Properties, LLC
PROPERTY LOCATED: on NYS RT22, Dover
and project update

PLANS PREPARED BY: Zarecki Associates
APPLICATION FOR: Subdivision, Request for extension

Joe Zarecki & Ian Holback Present

Joe Zarecki- This project began as 4 apartment buildings, they went through Public Hearing, due to public comment the project was revised to 5 residential lots along Rt 22, and 2 in the rear. The 2 rear lots are shared with neighboring property, where the old “Precast - Reichenberg property” was. So the common driveway is to be shared with lot 5 and the 2 rear lots along with the adjacent property owner. There was a Public Hearing, which was closed. Since then they have been working with the Dutchess County Department of Health, test wells were drilled, water quality and quantity were acceptable. During that time there were delays with the Dover Water Company. They wanted the project to extend up RT 22, so the other homes would be part of the water

district. There was a lot of discussion with the DC Health Department, there was finally a decision between the County and the water company, that there would be excessive cost, and an agreement was signed that this did not have to be done. The lot will be serviced by individual wells & septic. Since then Attorney Stadler, began working with the Town Attorney on the CPS 7 and the maintenance agreement for the rear lots. This would have to include the adjoining property owner. There have been difficulties with the other property owner, proposals have been presented, which resulted in him changing them or not responding. It's been difficult in getting cooperation; a huge amount of time has been taken up just on this.

In a effort to avoid working with the neighbor, the plan was revised with creating a new drives way along the existing one. There are wetlands, which come very close to that area, so before coming back to the Board, the sketch was forwarded to DEC. The DEC has agreed and feel they have the same struggles with the adjoining property owner.

So they are here to present this revision to the Planning Board. They are willing to loose 1 lot along Rt 22. In the maintenance agreement, there would only be the owners of the 2 rear lots, this would be much easier, a common driveway between 2 property owners, and the neighbor would still for the time being have the existing driveway.

Q: This plan show a 10' driveway

A: this is not a final drawing, this is merely concept. If the Board is in favor, this would be revised to meet all of the requirements of a 14 foot driveway. A formal grading plan would be submitted as well as it would have to meet all of the requirements DEC would require.

Q: Is this the only issue holding up the submission of final plat approval?

A: there are other minor ones. Such as the conservation easement, there were two choices, either the Town or individual lot owners. We had the impression that the Town at that time did not want it. They need to finalize DC Health Department, now that lot 5 will be removed; there is no point in getting Health Department approval on it. DOT is good, DEC is valid until 2013, and wetlands have been validated. The most time consuming and frustrating was trying to work with the neighbor.

Q: Is the existing gate the beginning of his property?

A: Actually the way his driveway is built, it's not in the actual easement that was dedicated for the rear lot, and it's on our property. We had created a new easement that would allow it to remain, but there was a struggle.

Q: Who's property is the gate on?

A: Our property, he has no property, just the easement.

Q: do you control the opening and closing of it?

A: He does, he claims eminent domain. It's been a challenge, and the patience of this board has been outstanding in granting us so many extensions of preliminary.

Clarification- his driveway is on an easement on your property and what you want to do is instead of dealing with that, you want to create a new driveway on your property adjacent to the existing one, to avoid the neighbor

A: Correct

Q: A portion runs through the wetlands, is that correct?

A: yes

Q: You spoke to DEC about this as well?

A: Yes Heather Gerloff, has been there many times, she knows the property, she was approached before the Board was approached. There will be limited, as much as practicable, disturbance into the wetlands. They will work with the Town Engineer to make sure the common driveway meets the town requirements.

Engineer Berger- I know the site well, and this will solve a lot of problems with the neighbor. The Town is still in litigation with the adjoining neighbor, so this is completely understood.

Planner Ley- As long as DEC is going to sign off on the revisions, this should be fine

Engineer Zarecki- The plans will be revised

Attorney Polidoro- We will have to revisit SEORA, to make a determination about the driveway and the wetlands.

Engineer Zarecki- That's fair, but not have to reopen the whole thing?

A: We would have to think about that, you can update the Board and they can consider re affirming.

Attorney- Polidoro- Technically you would still have to file a CPS-7

Member- How many houses will the common driveway serve?

A: 2, the rear lots

Q: The propane tank is still on your property.

A: yes, the owner of that had already agreed to move it once the re alignment of the driveway was done. These new changes would eliminate the realignment of the driveway in that are

Q: If you widen the driveway- will the old barn go down?

A: yes it's in bad shape, and would be removed.

This will use the same entrance from Rt 22 and deviate away from the existing drive on the north.

Co-Chair Wylock- The applicant has also asked for an extension of final plat which we can entertain at this time.

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

May 7, 2012

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 seven six-month extensions of time; and

WHEREAS, the applicant has timely requested an additional extension of time in which to submit a final plat from May 8, 2012 to November 8, 2012; 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 six-month extension of time to November 8, 2012, to submit a final plat for the Board's consideration.

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.

Moved by: Michael Villano **Seconded by:** Valerie LaRobardier

David Wylock	<u>AYE</u>	Valerie LaRobardier	<u>AYE</u>
Nicholas D'Agostino	<u>AYE</u>	Tom Holmes	<u>AYE</u>
Peter Muroski	<u>AYE</u>	William Sedor	<u>AYE</u>
Michael Villano	<u>AYE</u>		

Discussions:

O'MARA 2 LOT SUBDIVISION 7059-00-917529

APPLICANT O'Mara Realty Corp. PLANS PREPARED BY Harry Nichols, P.E.

PROPERTY LOCATED on Coleman Lane and Johnson Road, Wingdale

APPLICATION FOR Final Plat Non Realty subdivision to create 1 new lot, on a 2.93 acre parcel in the SR district

Harry Nichols- This is a 2.398 acre parcel of land in which a 2 parcel subdivision is proposed. Both will have road frontage on Coleman. The proposal is for individual wells and septic. The soil testing was done with DC BOH, with acceptable results. At the last meeting the decision was made to apply for a non realty subdivision.

Co Chair Wylock- there is a letter from DEC and we would like our planner to comment on it

Planner Ley:

The Applicant proposes to subdivide an existing 2.93 acre parcel into 2 lots. The property is located in the SR Zoning District. A stream traverses the rear of the property. However no direct

impacts to the stream or 100 foot buffer would be required to access the property for the development of single family homes, driveways, and septic systems.

As requested, the applicant’s engineer contacted the New York State Natural Heritage program, which provided a report on rare species and ecological communities that have been found in the vicinity of the project site. The applicant’s engineer should contact the NYSDEC Regional office, as directed by NYSDEC’s letter, to determine the potential presence of these species on the project site and any mitigation or avoidance measures that may be required. The Planning Board should be copied on any correspondence. A habitat survey that demonstrates the potential for these species to be located on the property may be required prior to the issuance of a SEQR determination.

We need to confirm that this subdivision will not have an impact on the species or any habitat.

Engineer Berger- Both maps are fine, the easement for the conflict with driveway 1 should be described with metes and bounds, with distances and bearing and in the deed to be filed with the County.

Once the final information is received from DEC the Board can conclude SEQRA.

Motion made by Peter Muroski to classify this as an unlisted action under SEQRA 2nd by Bill Sedor

VOTE: CO-CHAIR WYLOCK	AYE	CO-CHAIR VALERIE LAROBARDIER	AYE
MEMBER PETER MUROSKI	AYE	MEMBER MICHAEL VILLANO	AYE
MEMBER TOM HOLMES	AYE	MEMBER NICHOLAS D’AGOSTINO	AYE
MEMBER WILLIAM SEDOR	AYE		

After a response from DEC is received, we can move forward with Public Hearing.

486 RT 55- PUTNAM STEEL- 7160-00-451311

APPLICANT: Putnam Steel Inc PLANS PREPARED BY: Insite Engineering

PROPERTY LOCATED at 486 Rt 55 Wingdale, NY 12522

APPLICATION FOR: a Site Plan / Special Permit change of use from processing firewood to the design and manufacturing of ornamental steel on 15.1 acres of land in the RU district

Status- Project returning for update

Theresa Ryan & Don Walsh present

Don Walsh of Development Strategies, Theresa Ryan of Insite Engineering is here as well the site is on Rt 55.

1996 the site was owned by Mr. Shatz, he sold it to Morsey. Morsey looked to develop the property for a dual purpose; to erect a house and a home occupation. Their business was ‘North West Firewood’. This was a firewood processing business. 1997 Ms.

Morsey came before the Town, a site plan approval was granted. The 9,000 square foot butler style building was then built with building permits. The house was framed, a c/o was issued for the butler building and a ‘Mill operating’ permit was issued for the business.

When he first came to the Town the circumstances were unusual, Northwest firewood had operated for many years. The Town had given the business a 10 year tax abatement, which lasted until 2009. The facility in 2007 had gone into default; his principles had the loan on the equipment and Putnam County Savings had the property loan and they foreclosed. His company was a pension plan and bought the land from Putnam County savings through the foreclosure.

Fall 2007- He (Mr. Walsh) came to the Town to begin his research on the property. He spoke to Tom Hearn, who showed him a file with a Planning Board approval in it, there was a signed site plan, not a resolution, nothing more. Mr. Hearn suggested an informal meeting in 2008; it was clear from the plan that if there were an occupancy change, there had to be a site plan amendment. There was controversy at that time, due to questions surrounding how a commercial building could be operating when the home was not complete.

It seemed as though there were no other files on this found at that time which turned out to be incorrect.

He (Mr. Walsh) was advised at that time, to wrap up the existing approval, from North West Firewood. The driveway had not been finalized with DOT, the Septic system for the house had not been finalized with the DOH, in fact the house had not been finished. The Board had advised him for a home occupation there should at least be a home. In the middle of 2008 they began to finish the house.

Mr. Morsey had passed away shortly after the foreclosure and Mrs. Morsey had left the area. We have found her and she helped fill in the blanks for information

We were told to find an occupant for the premises, and we were told the Town required a zoning variance, since the zoning had changed from 1997 to 1999. Home occupations were limited to 40% of the area of the home, since the business is 9,000 square feet and the home 1,600 square feet, they were sent to the Zoning Board.

So now there was a tenant, Putnam Steel, who manufactures railings and smaller product, not a manufacturing plant. Mr. Nelson planed to live there and run his business.

March 2011 a variance was applied for, and in June 2011 they were denied by the Zoning Board. This then went to court on an Article 78 the decision of the board was challenged for being arbitrary and capricious. When the record was produced from the Town of Dover for the Article 78, suddenly there was a reference to a Zoning Board proceeding with permits he had never heard of in that file from 1997. Ms. Ryan had FOILed and was told there was no zoning file, which was not true. A FOIL was filed to find out there was a full Zoning board proceeding, in the summer of 1997. In that approval there was a special use permit, a 'non terminable Special use permit', which did not have a sunset provision, but there were conditions, but by August last year, those conditions had been met.

With these records, with the testimony of Mrs. Morsey, we were told in 1997 she filed an application for the Town Board. They had encouraged her to get a business on Rt 55; they promised a tax break and an expedited proceeding, which all happened. There was a Planning application which as referred to Zoning, Zoning granted the permit went back to Planning and they signed a site plan. Once he had all of this, the Article 78 came to a halt, the judge called everyone in. The Judge said he would refer them back to the Planning Board, to complete the normal administrative proceedings.

They are here now for the Board to consider receiving the re-filed application and allow them to proceed under the terms of the Special Use Permit, with the new occupant.

There is a memo in the building department, but it is all redacted. There is also a memo from then Supervisor Jill Way, which can not be located.

There was a C/O issued and the permit for the business was renewed each year.

So they are back before the Planning Board.

Q: have you re-FOILED that redacted letter since January?

A: September and December the FOILs took place, and then the courts set up the conferences. His Lawyer told him to let it go for now. He (Mr. Walsh) was first told the letter could not be found then he was told it was a personal; it was clearly a piece of paper over a page and copied. We now have a file, we know what happened then and now we have a buyer. We would like to proceed with site plan approval.

Q: is there an expiration date on the special use permit?

A: there is not and both the Judge and the court clerk commented on that.

Planning Board Attorney- under Town law, if the use is abandoned for a period, it does.

A: nothing has been abandoned up there, except the saw mill, the premises have been operating and occupied continually since 1999, it takes a long time to get rid of 175,000 square cubic feet of wood. There are affidavits filed with the town regarding the continuous use.

Planning board Attorney- So what happened if the planning board determines they can't review this due to issues with the special Use permit?

A: We are back in court and the court makes the decision if the Towns' actions are arbitrary & capricious or not. After hearing the Judge and Clerk he understands the direction they are going and they are aware he pays over \$40,000 a year in taxes for this building.

Attorney-So in that case you could win your case and get your variances -

A: No not variances special use permit being re affirmed

Attorney: But that's not part of your Article 78

A: Yes it is, we amended the Article 78 for declaratory judgment in favor of, once they saw the special use permit, they realized, everybody realized, the original advice from the Town from the Building Department was incorrect. Whether they forgot, whether they mis-interpreted, he could not say.

Attorney: So you would be back before the court and they would decide whether the special use permit is valid-

A: But I must exhaust my administrative remedies for declaratory judgment.

And this is, coming before the Planning Board, my administrative remedy, and he would like to think, it is far better to go before the planning Board, and have the input if anything should be done here, than have the court do it.

Attorney- To clarify- if there is a question with the permit, the Planning Board is not the Board of interpretation, it always needs to refer to the body who does, in this case the Building Inspector and the ZBA.

Q: if the Court rules against the Town for Declaratory judgment, would you be directed back to us, or would that judgment over rule any action

A: you have a reservation in the original site plan approval, that requires the review of this Board for any new occupant, and that is the only reason they are here now , this is where they started, the Town Attorney and Tim Curtiss have agreed this is where they need to go with the Judge concurring.

Attorney- So this is part of your path to exhaust your administrative remedies so you could get a judgment from the court

A: if it is or it is simply a referral as the Judge said to make sure something is done correctly.

The problem is that nothing from this application since 1997 seems to have been done correctly.

I don't know that, it seems like the application in 1997 went through Public Hearing and planning Board and they voted on a series of resolutions and they referred it to the ZBA the ZBA had Public Hearing

Not necessarily a problem with the approvals but more with the issuance of the permits for the house not being build prior to the home occupation.

We too wanted to know what happened; apparently the Town Board did something. The point is now there are 2 buildings with C/O's and they are both ready to go. There are just a few things missing between the question from Mr.Greiner and Ms.Way

Q: If the court rules against the Town and you are ordered back to the Planning Board, do we then have to refer them back to the ZBA?

Attorney- No, although she is not involved in the litigation, but if there is a declared judgment, if the judge declares the 1977 SUP is valid, then they have a approved special use permit authorizing a home occupation, then all the Planning Board has before them is a site plan approval for the new business. Or they can get the variances and the third option is what he is asking you is to accept this old SUP as valid and then grant Site Plan.

Mr. Curtiss' argument is on the validity of the Special Use Permit and it is not the determination of this Board.

The judge was surprised the Town Attorney was not the PB attorney, but that did not happen.

Site plan details, road to be finished around the building, screening, and to make sure the c/o are in place

Q: Is the Special Permit validity being challenged?

A: no one has challenging it, when it was produced with the request for declaratory judgment, everything stopped.

One thing that needs to be reviewed is the zoning in 1997 since the zoning changed in 1999,

Another is the conditions of the approval in the minutes, it stated this Special Use permit is conditioned on the house being built and receiving a C/O before the fire operation start- clearly something changed, because that wasn't the case. We don't have a record of it. Is the special use permit valid was it ever valid?

The way the 1997 minutes are written, that point was almost raised. It's agreed the house should have been built before the business, but the Town was very aware that the business was operating because each year they permit was renewed; all they had to do was see that the home was never completed.

Correct, each year the fee was paid.

There just does not seem to be a clear path for this application. The only clear thing is the statement on the map which says if a change in occupancy they need to return to the Planning Board

Also note there is not just 1 C/O on the building; there are two because in 2005 and 2006 there was a fire. There was also an engineering study done actually 2- 6 months apart. 8 years of mill operating permits.

Chair- Lets tentatively put this on the June 4th agenda and set a site walk

A few questions on Putnam Steel;

Q: Are they moving completely from Brewster?

A: Yes

Q: Their website says the dabble in railings and staircases, the main thing they show is 'I' beams and more serious construction

A: The "I" beams are not made here, that is off site. The site in Brewster was visited and its more hand tooled. There are 2 beams there, but they are used as tables to cut on.

We just wanted to clarify that they are not manufacturing steel there.

Theresa Ryan- The property is approximately 15 acres, there is 1 entrance off Rt 55, initially paved. The residential drive way is for n/f Ward it continues to gravel to the existing residence then up to the top of the hill where the 11,000 square foot building is. There is employee parking, 4 -12 1/2' X 40' tractor, crane and flat bed parking spaces, in the rear the existing gravel ends. They plan to extend the gravel with no change to topography, no grading, just laying gravel to stabilize for out door storage & 6 - 12 1/2' X 50 trailer parking, no changes to the building. All outside agency approvals are complete, the DOT permit has been closed out for the entrance, the septic were not installed properly, they are now repaired and brought up to date and approved by Health

Department. The residence and other building both have individual wells and septic system./ There are no variances needed for setbacks or lot area.

Site plan was given August 5, 1999, with hand written conditions, the last being any changes in the use of the property will require Planning Board site plan approval.

**Putnam Steel Site Walk for Monday May 21, 2012 @ 5:30 PM
Prior to the Planning Board meeting**

APPROVAL OF MINUTES APRIL 2, 2012

Motion made by Valerie LaRobardier to approve the minutes of April 2, 2012 2nd by Michael Villano

VOTE: CO-CHAIR WYLOCK	AYE	CO-CHAIR VALERIE LAROBARDIER	AYE
MEMBER PETER MUROSKI	AYE	MEMBER MICHAEL VILLANO	AYE
MEMBER TOM HOLMES	AYE	MEMBER NICHOLAS D'AGOSTINO	ABSTAIN
MEMBER WILLIAM SEDOR	ABSTAIN		

Motion approved

Motion made by Peter Muroski to adjourn 7:57 2nd by Bill Sedor

VOTE: CO-CHAIR WYLOCK	AYE	CO-CHAIR VALERIE LAROBARDIER	AYE
MEMBER PETER MUROSKI	AYE	MEMBER MICHAEL VILLANO	AYE
MEMBER TOM HOLMES	AYE	MEMBER NICHOLAS D'AGOSTINO	AYE
MEMBER WILLIAM SEDOR	AYE		

Motion approved

Respectfully submitted,

Betty-Ann Sherer

Betty-Ann Sherer

PlanningARB@TownofDoverNY.US

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
This meeting may now be viewed at Cablevision Channel 22 for residents who have that provider-
Please check local listings for meeting re broadcast times

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