



# Planning Board

Special Meeting

<http://www.townofdovery.ny.us/>

~ Minutes ~

Wednesday, January 15, 2014

7:00 PM

Town Hall

The Town of Dover Planning Board held a Special Meeting at 7:00 PM on Wednesday, January 15, 2014 at the Town Hall, 126 East Duncan Hill Road, Dover Plains, NY 12522 with the following members present:

## I. Call to Order

Chair Wylock called the meeting to order at 7:00 PM. Everyone stood for the Pledge of Allegiance to the flag.

Attendee Name	Organization	Title	Status	Arrived
David Wylock	Town of Dover	Chairman	Present	
Valerie LaRobardier	Town of Dover	Board Member	Present	
Pete Muroski	Town of Dover	Board Member	Present	
William Sedor	Town of Dover	Board Member	Present	
Michael Villano	Town of Dover	Board Member	Present	

## II. Pledge of Allegiance

## III. Appointment of Planning Board Consultants & Clerk

### 1. RESOLUTION APPOINTING A PLANNING CONSULTANT TO THE PLANNING BOARD

WHEREAS, pursuant to Section 271(2) of the Town Law, the Planning Board is authorized to employ experts, clerks and a secretary, and to provide for such other expenses as may be necessary and proper.

**NOW THEREFORE BE IT RESOLVED, that the Planning Board of the Town of Dover does hereby appoint AKRF, Inc., as Planners to the Planning Board for the year 2014, subject to the terms and conditions of AKRF's contract with the Town of Dover.**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** William Sedor, Board Member    **SECONDER:** Valerie LaRobardier, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

### 2. RESOLUTION APPOINTING ENGINEER TO THE PLANNING BOARD

WHEREAS, pursuant to Section 271(2) of the Town Law, the Planning Board is authorized to employ experts, clerks and a secretary, and to provide for such other expenses as may be necessary and proper.

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**NOW THEREFORE BE IT RESOLVED**, that the Planning Board of the Town of Dover does hereby appoint Berger Engineering and Surveying (Joseph Berger, L.S., P.E.), as Engineers to the Planning Board for the year 2014, and authorizes the Chair to execute the retainer agreement on file with the Planning Board Clerk.

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Pete Muroski, Board Member      **SECONDER:** Michael Villano, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**3. RESOLUTION APPOINTING ATTORNEYS TO THE PLANNING BOARD**

WHEREAS, pursuant to Section 271(2) of the Town Law, the Planning Board is authorized to employ experts, clerks and a secretary, and to provide for such other expenses as may be necessary and proper.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board of the Town of Dover does hereby appoint Rapport Meyers LLP (Victoria L. Polidoro, Esq.), as Attorneys to the Planning Board for the year 2014, and authorizes the Chair to execute the retainer agreement on file with the Planning Board Clerk.

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member      **SECONDER:** William Sedor, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**4. RESOLUTION APPOINTING CLERK TO THE PLANNING BOARD**

WHEREAS, pursuant to Section 271(2) of the Town Law, the Planning Board shall is authorized to employ experts, clerks and a secretary, and to provide for such other expenses as may be necessary and proper.

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board of the Town of Dover does hereby appoint Betty-Ann Sherer as Clerk to the Planning Board for the year 2014.

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Michael Villano, Board Member      **SECONDER:** Pete Muroski, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**IV. Public Hearings:**

**a. O'Mara 2 Lot Subdivision 7059-00-917529**

No representative for the Applicant were present

**Motion to open the O'Mara Public Hearing**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member      **SECONDER:** Pete Muroski, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

There were no additional review comments from the Planning Board Consultants

There were no additional review comments from the Planning Board Members

There were no Public Comments on this application

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**Motion to close the O'Mara Public Hearing**

<b>RESULT: ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b> Michael Villano, Board Member <b>SECONDER:</b> William Sedor, Board Member
<b>AYES:</b> Wylock, LaRobardier, Muroski, Sedor, Villano

**RESOLUTION DENYING PRELIMINARY LAYOUT APPROVAL**

WHEREAS, by application dated February 7, 2012, Patrick O'Mara applied to the Planning Board for approval of a non-realty subdivision to create two lots from an existing 2.9 acre lot, as shown on the plat entitled, "Proposed 2 Lot Subdivision of Patrick O'Mara," prepared by Larry L. Lynn, L.S., dated March 26, 2012; and

WHEREAS, the parent lot is located on Coleman Lane in the SR Zoning District and is identified as tax map parcel no. 7059-00-917529; and

WHEREAS, the NYS Department of Environmental Conservation, by letter dated February 7, 2013, advised the applicant that the parent lot is located within or near recorded observances of the Indiana Bat, a listed species, and that to avoid a take, the applicant should limit tree removal to October 1, 2013 and March 31, 2013; and

WHEREAS, the applicant has agreed to place a note on the subdivision plat requiring that all tree removal take place between October 1<sup>st</sup> and March 31<sup>st</sup> of each year and prohibiting tree removal at all other times; and

WHEREAS, the applicant has conducted soil tests which confirmed that soils are sufficient to support a SDS on each of the proposed lots and provide well service; and

WHEREAS, the submittal was accompanied by an Environmental Assessment Form ("EAF") dated February 7, 2012; and

WHEREAS, on May 6, 2013, the Planning Board classified the action as an unlisted action and adopted a determination of non-significance, finding that the project as proposed would not result in any significant adverse environmental impacts; and

WHEREAS, a duly noticed public hearing was held on June 3, 2013, continued to July 1, 2013, and thereafter continued to August 5, 2013, September 16, 2013, October 7, 2013, December 2, 2013 and January 15, 2014, during which all those who wished to speak were heard; and

WHEREAS, the applicant has not attended a public hearing or appeared before the board since July 1, 2013, when additional information on site topography and drainage was requested; and

WHEREAS, the applicant has not provided any additional information to the Board since the July 1, 2013 meeting; and

WHEREAS, the applicant has not responded to requests for status updates from the Board's secretary at any time in the past six months; and

WHEREAS, each time the application is placed on the agenda for a continued public hearing it results in additional administrative work on the part of Town staff and imposition of consulting review costs on the applicant; and

WHEREAS, pursuant to Section 276(8) of the NYS Town Law, if the Planning Board fails to take action on a preliminary plat within 62 days of the closing of the public hearing and completion of SEQRA, such preliminary plat shall deemed approved.

**NOW THEREFORE BE IT RESOLVED, that the Planning Board finds that the applicant has failed to pursue the application before the Planning Board and that the application has been abandoned.**

**BE IT FURTHER RESOLVED, that the Planning Board hereby denies preliminary layout approval to the plat entitled, "Final Plat, Proposed 2 Lot Subdivision of Lands of Patrick O'Mara," prepared by Larry L. Lynn, L.S., dated March 26, 2012, no revision date, for failure of the applicant to pursue the application and provide the Board with the requested information. This denial is issued without prejudice and the applicant may reapply for subdivision approval in the future.**

<b>RESULT: ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b> Valerie LaRobardier, Board Member <b>SECONDER:</b> William Sedor, Board Member
<b>AYES:</b> Wylock, LaRobardier, Muroski, Sedor, Villano

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**b. John Quartararo Subdivision 6962-00-310797 & 6962-00-377644**

**Rich Rennia was present for the Applicant**

AKRF, Inc. has reviewed the Eastern Timber Rattlesnake Habitat Assessment Report for the Quartararo Property, prepared by Michael Nowicki, and dated 11/27/13.

1. The Timber Rattlesnake Habitat Assessment Report provides a thorough analysis of the potential for timber rattlesnakes to frequent the subdivision site. The Timber Rattlesnake is a NYS “threatened” species.
2. Due to the very close proximity of the project site to known den sites and basking habitat, NYSDEC is an involved agency in accordance with SEQRA and must review of the applicant’s Timber Rattlesnake report and its mitigation recommendations. This has already been initiated by the Town submitting its intent to declare lead agency under SEQRA. The NYSDEC response indicated that the Town should contact Lisa Masi of Region 3 due to the presence of Timber Rattlesnake. AKRF has reached out to Lisa Masi and submitted a copy of the Timber Rattlesnake report. Getting feedback from NYSDEC is critical for the Town to make a determination on this application, as this agency is in possession of the best technical and habitat data regarding the Timber Rattlesnake. The proposed arrangement of homes and driveways may constitute a taking with respect to this species. The NYSDEC may also provide comments for the Town’s consideration that would modify the proposed project to minimize timber rattlesnake impacts.
3. We note that the large size of the proposed single family lots and depth within which each building site is located maximizes habitat fragmentation and the potential disturbance to migrating/foraging snake (including road kill). An arrangement that moves the proposed homes closer to the existing roads is far preferred and would substantially minimize potential timber rattlesnake impacts. This is especially true for the proposed 69 acre Lot 2, but applies to Lots 3 and 4 as well. Ideally, large portions of the lots that are furthest from Chestnut Ridge and Ridge Roads would be preserved in conservation easement to protect snake migratory movements. As such, the Applicant should consider pursuing a Flexible Subdivision (see §145-18 through 20 of the Town Code).
4. The responsible entities that will inspect the snake exclusion fencing proposed by the applicant must be named as a condition of subdivision approval. In addition to daily fence inspection during the construction period, an ecological consultant with timber rattlesnake experience should also be designated and should visit the sites of construction on a weekly or bi-weekly basis during the period snakes are active (April-October). The procedure for contacting the appropriate ecological consultant in the event of encountering a rattlesnake during construction should be included in the approval documents.

**Motion to waive the requirements of section 125-17 C of the Town Law**

**Engineer Rennia has requested waivers of Sections:**

§ 125-17. Preliminary layout.

C. Topography at a contour interval of not more than five feet, unless waived by the Planning Board, and referred to a datum satisfactory to the Board.

Applicant’s Justification for Waiver:

125-17- C- USGS Contours of 10' were used

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**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member   **SECONDER:** Michael Villano, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**Motion to waive the requirements of section 125-17 G of the Town Law**

G. The location of pertinent natural features that may influence the design of the subdivision, such as watercourses, swamps, rock outcrops and single trees eight or more inches in diameter.

Applicant's Justification for Waiver:

125-17- G- Although rock out cropping may be important to (rattle) snakes, there were none significant noted in the Habitat Assessment Report for this site

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member   **SECONDER:** Michael Villano, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**Motion to continue the Public Hearing to February 3, 2014**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member   **SECONDER:** Pete Muroski, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**V. Old Business:**

**a. Olivet Erosion Control Permit 7159-00-162702**

**Motion to approve the short form EAF**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member   **SECONDER:** William Sedor, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**RESOLUTION TO GRANT EROSION AND SEDIMENT CONTROL PERMIT APPROVAL**

WHEREAS, the applicant, Olivet Management, LLC, has submitted an application for an erosion and sediment control permit for property located at 207 Hutchinson Avenue, Wingdale, NY, as shown on the plan entitled, "The Olivet Center, Erosion and Sediment Control Plan," prepared by RENNIA Engineering Design, PLLC, dated October 28, 2013, last revised January 7, 2014; and

WHEREAS, the parcel involved in this permit application is identified as tax parcel number 7159-00-162702 (the "site"), and is located in the HR, HM, RU and CO Zoning Districts and AQ and MC Overlay Districts; and

WHEREAS, the applicant is seeking an erosion and sediment control permit to restore the demolished building area with site grading and soil stabilization, restore athletic fields and courts, and install ESC practices as described in the SWPPP (the "project"); and

WHEREAS, the application was accompanied by a Short Environmental Assessment Form ("EAF"), dated October 28, 2013; and

WHEREAS, on November 13, 2013, the Planning Board classified the project as an unlisted action and declared its intent to serve as lead agency in coordinated review of the project, to which no other agency has objected; and

WHEREAS, the applicant is not proposing to remove any trees greater than 4 inches diameter at breast height, due to the potential presence of the Indiana Bat; and

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

WHEREAS, pursuant to Section 239-m of the General Municipal Law, the application was referred to the Dutchess County Department of Planning and Development, which no response was received.

**NOW THEREFORE BE IT RESOLVED, that the Planning Board hereby adopts a negative declaration for the Olivet Site Restoration project, finding that the project as proposed will not result in any significant adverse environmental impacts and that a Draft Environmental Impact Statement will not be prepared; and**

**BE IT FURTHER RESOLVED, that the Planning Board hereby grants the applicant an erosion and sediment control permit for disturbance as shown on the plan entitled, "The Olivet Center, Erosion and Sediment Control Plan," prepared by Renna Engineering Design, PLLC, dated October 28, 2013, last revised January 7, 2014, subject to the following conditions:**

1. **Submission of \$1,000.00 to be placed into escrow to cover the cost of site inspections by the Planning Board Engineer or Planner.**
2. **Submission of a performance guaranty in the amount of \$13,700, in form, substance, and matter of execution satisfactory to the Town Attorney.**
3. **Revision of the plan to include the following note: No trees greater than 4 inches diameter at breast height shall be removed.**

**BE IT FURTHER RESOLVED, that before the authorized official may issue a Certificate of Compliance, the Planning Board Engineer or Planner shall provide the authorized official with a written statement indicating that all work authorized under the permit has been completed in accordance with the approved permit.**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member    **SECONDER:** William Sedor, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

## **VI. New Business**

- a. **None**

## **VII. Entertain Request for Extensions**

- a. **Dwy Lane Lot Line Change 7161-04-929119**

### **RESOLUTION GRANTING 180 DAY EXTENSION OF TIME IN WHICH TO SATISFY THE CONDITIONS OF FINAL SUBDIVISION PLAT APPROVAL**

WHEREAS, on July 1, 2013, the Planning Board granted conditional final approval to the plat entitled, "Map Showing Proposed Realignment of Dwy Lane" prepared by Eric W. Gardell, L.S. 45874, dated June 20, 2012, for lot line alterations along Dwy Lane; and

WHEREAS, pursuant to Section 276(7)(c) of the NYS Town Law, conditional approval of a final plat shall expire within 180 days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed; and

WHEREAS, pursuant to Section 276(7)(c) of the NYS Town Law, a planning board may extend for periods of 90 days the time in which a conditionally approved plat must be submitted for signature if, in the planning board's opinion, such extension is warranted; and

WHEREAS, on May 30, 2012, Local Law No. 3 was adopted which authorizes the Planning Board to grant eight extensions of up to 180 days each; and

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WHEREAS, by letter dated December 12, 2013, the applicant timely requested a 180-day extension of the time in which to meet the conditions of final plat approval; and

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

**NOW THEREFORE BE IT RESOLVED, that the Planning Board hereby grants the applicant a 180-day extension of time in which to satisfy the conditions of final plat approval to and including July 7, 2014.**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Michael Villano, Board Member    **SECONDER:** Pete Muroski, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**b.     Zingaro Property 7259-00-088958**

**RESOLUTION GRANTING 180 DAY EXTENSION OF TIME IN WHICH TO SATISFY THE  
CONDITIONS OF FINAL SUBDIVISION PLAT APPROVAL**

WHEREAS, on August 2, 2010, the Planning Board granted an erosion and sediment control permit and conditional final approval to an eight lot flexible subdivision plat entitled "Final Subdivision Plat known as Route 55 Corp.," for property located on New York State Route 55, Tax Parcel No. 7259-00-088958 (the "site"); and

WHEREAS, pursuant to Section 276(7)(c) of the NYS Town Law, conditional approval of a final plat shall expire within 180 days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed; and

WHEREAS, pursuant to Section 276(7)(c) of the NYS Town Law, a planning board may extend for periods of 90 days the time in which a conditionally approved plat must be submitted for signature if, in the planning board's opinion, such extension is warranted; and

WHEREAS, on May 30, 2012, Local Law No. 3 was adopted which authorizes the Planning Board to grant eight extensions of up to 180 days each; and

WHEREAS, on January 3, 2011, the Planning Board granted the applicant a 90 day extension of time in which to meet the conditions of final plat approval to April 29, 2011; and

WHEREAS, on April 4, 2011, the Planning Board granted the applicant a second 90 day extension of time in which to meet the conditions of final plat approval to July 28, 2011; and

WHEREAS, on July 18, 2011, the Planning Board granted the applicant a third 90 day extension of time in which to meet the conditions of final plat approval to October 26, 2011; and

WHEREAS, on October 3, 2011, the Planning Board granted the applicant a fourth 90 day extension of time in which to meet the conditions of final plat approval to January 24, 2012; and

WHEREAS, on January 16, 2012, the Planning Board granted the applicant a fifth 90 day extension of time in which to meet the conditions of final plat approval to April 23, 2012; and

WHEREAS, on April 2, 2012, the Planning Board granted the applicant a sixth 90 day extension of time in which to meet the conditions of final plat approval to July 23, 2012; and

WHEREAS, on July 16, 2012, the Planning Board granted the applicant a seventh extension of time in which to satisfy the conditions of final plat approval to and including January 21, 2013, constituting the fourth 180-day extension; and

WHEREAS, on January 7, 2013, the Planning Board granted the applicant a fifth 180-day extension of the time in which to satisfy the conditions of final plat approval to July 22, 2013; and

WHEREAS, on July 1, 2013, the Planning Board granted the applicant a sixth 180-day extension of the time in which to satisfy the conditions of final plat approval to January 20, 2014; and

WHEREAS, by e-mail dated January 6, 2014 the applicant's attorney requested an additional 180-day extension of the time in which to meet the conditions of final plat approval; and

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

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**NOW THEREFORE BE IT RESOLVED**, that the Planning Board hereby grants the applicant a seventh 180-day extension of time in which to satisfy the conditions of final plat approval to and including July 21, 2014.

<b>RESULT: ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b> Michael Villano, Board Member <b>SECONDER:</b> Valerie LaRobardier, Board Member
<b>AYES:</b> Wylock, LaRobardier, Muroski, Sedor, Villano

**c.     Dover Estates 6 Lot Subdivision- 7060-00-788552 & 7060-16-779491**

**RESOLUTION GRANTING FOURTH 6-MONTH EXTENSION OF EROSION AND SEDIMENT CONTROL PERMIT APPROVAL**

WHEREAS, on August 1, 2011, the Planning Board granted conditional final approval to the subdivision plat entitled "Dover Estates, Town of Dover", Sheets 1-14, dated 10/21/04, last revised 6/11, prepared by Northern Westchester Civil Engineering, PC and granted an erosion and sediment control permit for disturbance shown thereon; and

WHEREAS, pursuant to Section 65-8K of the Code, the Planning Board may grant an extension of time to complete the work contemplated under an erosion and sediment control permit if, in its discretion, the Planning Board finds that such extension was warranted; and

WHEREAS on December 19, 2011, the Planning Board granted the applicant a six-month extension of time to February 1, 2013, to complete the work contemplated under the permit; and

WHEREAS, on December 3, 2012, the Planning Board granted the applicant a second six-month extension of time to August 1, 2013, to complete the work contemplated under the permit; and

WHEREAS, on June 3, 2013, the Planning Board granted the applicant a third six-month extension of time to February 1, 2014 to complete the work contemplated under the permit; and

WHEREAS, the applicant has requested an additional extension of time to complete the work authorized under the permit; and

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

**NOW, THEREFORE BE IT RESOLVED**, that the Planning Board hereby grants the applicant a fourth 6-month extension of time to August 1, 2014 to complete the work contemplated under the erosion and sediment control permit, as shown on the approved plan entitled, "Dover Estates, Town of Dover", Sheets 1-14, dated 10/21/04, last revised 6/11, prepared by Northern Westchester Civil Engineering, PC, subject to satisfaction of the conditions set forth in the resolution adopted by the Board on August 1, 2011; and

**BE IT FURTHER RESOLVED**, that before the authorized official may issue a Certificate of Compliance, the Planning Board Engineer shall provide the authorized official with a written statement indicating that all work authorized under the permit has been completed in accordance with the approved permit.

<b>RESULT: ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b> Pete Muroski, Board Member <b>SECONDER:</b> Michael Villano, Board Member
<b>AYES:</b> Wylock, LaRobardier, Muroski, Sedor, Villano

**VIII. Minutes:**

**a.     Minutes of December 2, 2013**

Minutes approved as submitted

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**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Valerie LaRobardier, Board Member   **SECONDER:** Michael Villano, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

**IX. Adjournment**

The meeting was closed at 7:43

**Motion to Adjourn at 7:43**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** David Wylock, Chairman   **SECONDER:** Pete Muroski, Board Member  
**AYES:** Wylock, LaRobardier, Muroski, Sedor, Villano

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Betty-Ann Sherer, Recorder