

Town of Dover Planning Board

- Robert Hooper - Chairman
- Paul McGrath - Vice Chairman
- William B. Gilbert
- Jose Yamoza
- William Shauer
- John R. Frister
- Joan Bocchino
- Harry Ruiz

COUNTY OF MORRIS
37 NORTH SUSSEX STREET
P.O. BOX 798
DOVER, NEW JERSEY 07802-0798

Telephone: 973-366-2200 (Ext. 115)
Fax: 973-366-0039

- Javier Marin - Mayor
- William Shuler - Alderman
- Lewis Fico- Alternate I
- Kay Walker- Alternate II
- Lee Greb - Board Attorney
- Michael Hantson - Town Engineer
- Regina Nee - Clerk/Secretary
-

PLANNING BOARD REGULAR MEETING MINUTES FOR JANUARY 28, 2004

CALL TO ORDER Chairman Hooper called the meeting to order at 8:08PM

ROLL CALL: PRESENT: Commissioners Yamoza, Gilbert, Frister, Bocchino, Shauer, Ruiz, Alternate Fico, Alderman Shuler, Vice-Chairman McGrath, and Chairman Hooper

ABSENT: Commissioner Walker

ALSO PRESENT: Present this evening is Board Attorney Lee Greb and Town Engineer Michael Hantson

PLEDGE OF ALLEGIANCE was recited by all.

ADEQUATE NOTICE OF MEETING was read by Clerk/Secretary Nee.

MINUTES: A motion to approve the minutes for the December 3, 2003 meeting was made by Vice-Chairman McGrath, seconded by Commissioner Gilbert and followed with a Roll Call.

ROLL CALL: Ayes: Commissioner Gilbert, Frister, Bocchino, Vice-Chairman McGrath, and Chairman Hooper

Noes: None

A motion to approve the minutes of the Re-Organization Meeting of January 7, 2004 was made by Vice-Chairman McGrath, seconded by Commissioner Fico and followed with a roll call vote.

ROLL CALL: Ayes: Commissioner Yamoza, Gilbert, Frister, Bocchino, Shauer, Ruiz, Alderman Shuler, Vice-Chairman Mc. Grath, and Chairman Hooper

CORRESPONDENCE: Anyone wishing to view correspondence since the last meeting can do so after the meeting.

PUBLIC PORTION

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Chairman Hooper opened the meeting to the Public. Anyone from the public wishing to discuss any business with this Board, other than the applications to be heard this evening, was asked to please come forward at this time. Seeing no hands, this portion of the meeting was closed to the public.

REPORTS

Chairman's Report. . Chairman Hooper made his appointments for the various committees.

Treasurer's Report . . . Commissioner Frister will remain as treasurer.

Budget & Finance . . . Commissioner Frister advised that the budget has been submitted. Mr. Hantson suggested that there will probably be changes to the numbers that were submitted. He suggested that the budget meeting be postponed until a better idea of figures could be submitted.

Master Plan Committee will be chaired by Chairman Hooper and appointed Vice-Chairman McGrath, Alderman Shuler, and Commissioner Bocchino to be members of this committee. There is a lot of work to be done. Several additional meeting will be held.

Site Plan Committee will be chaired by Commissioner Gilbert and Commissioner Ruiz, Fico, and Yamoza were appointed to this committee.

Sub-Division Committee will be chaired by Commissioner Frister and Commissioner Shauer and Walker were appointed to this committee.

RESOLUTIONS

SD-06-03 –Ariel Perez, **Block 2103, Lot 7** also known as 26 East Chrystal Street, located in the R-2 zone. The application is a two (2) lot Minor Subdivision to create one (1) conforming new building lot, and any other variances and waivers that may be required.

The resolution was read into the record by Attorney Greb. A motion to approve was made by Vice Chairman McGrath, seconded by Commissioner Frister, and followed by a roll call vote.

ROLL CALL: Ayes: Commissioner Gilbert, Frister, Bocchino, Vice-Chairman McGrath, and Chairman Hooper

Noes: None

CASES

SP-01-04 –Edward Murray, **Block 1903, Lot 4** also known as 111 East Blackwell Street, located in the C-1 zone. The application is a Preliminary and Final Major Site Plan to add a 288 square foot kitchen and a 6'x 8' walk-in refrigerator to an existing tavern, and any other variances and waivers that may be required.

Commissioner Gilbert introduced the Case.

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The applicant, Edward Murray, 21 Elizabeth Street was present and was sworn in. Mr. Murray was advised that before his application could be acted upon, it has to be deemed complete. According to the January 25th letter from Mr. Hantson, there were a number of items for which waivers were requested, and as such, the application is incomplete. Each waiver has to be acted upon by this board. When deemed complete, then you can proceed. If the board decides that one or more waivers are not granted, then your application is deemed incomplete, and will stay incomplete until those items are provided.

Mr. Hantson read his report for the record. With respect to the issue of completeness, the following administrative items were deficient. 1) The ordinance requires plans prepared by an appropriate licensed professional in accordance with state law. No sealed survey has been provided as required by the administrative code. 2) Requires signature and seal of person preparing plans, with respect to submitted documents. 3) Certification from applicant's engineer on any development application stating that no wetlands exist on the property. (An environmental impact statement was not required for this case.) 4) A complete submissive packet for the MC Planning Board for all applicable applications because the property fronts on Blackwell Street, a County road. Secretary Nee advised this was completed. One the preliminary major site plan, a key map must be revised from what was submitted. Signature Box must be revised to say "Town", not "Township". Existing and proposed contours and elevations should be provided; the property is in the flood hazard area of the Rockaway River. Minimally spot grades should be indicated.

William Byrne, the architect, was sworn in. Mr. Hantson stated that the proposal would be to show the flood elevations and how it relates to the floor elevations. Some spot grades around the building should be provided. The location of existing wooded areas, water crosses, easements street structures or any other features on the property or beyond the property which has an effect on the use of the property. The site plan should show all improvements at least out to and including the far side curbing on East Blackwell Street and Union Street including sidewalk, curb drainage and utilities. The location use and floor area of each proposed structure must be supplied. We need the location, design, and capacity of off-street parking and loading facilities, pedestrian circulation plans and solid waste and recyclable material storage. Plan and profile proposed storm drainage facilities. Per the plan, none are proposed. The applicant needs to provide plan and profile sanitary sewer facilities, which leads to the question of how it will be tied in; the same with the water supply. A soil erosion and sediment control plan for the Planning Board is required. Any landscaping proposed needs to be submitted, if you do not, just state that fact. The lighting must also be addressed. The applicant stated that this would be a kitchen and a storage area, and he must indicate this information on the plans. The applicant simply wants to provide food services with the existing services. The parking issue must be addressed. Drainage calculations must be addressed. You are aware that you need a stream encroachment permit from the DEP, and Mr. Hantson strongly suggested that the applicant investigate that. You need to know if you will be able to get that permit prior to advancing your project and spending the money. Anytime you are in a flood plane, there are a series of regulations to meet.

This portion of the meeting was opened to the Public.

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Daniel Fernandez, 115 E. Blackwell St. came forward. He lives next to this building. His main concern is where the exhaust system from the kitchen will be located. The other concern is the placement of a dumpster. Where will the construction trucks be parking?

Joanne Pauloucci, 121 E. Blackwell St. came forward. She expressed concern over the parking and how additional patronage will affect the area. Our driveways are already being used for turns and parking and should not be.

Mr. Hantson recommended that the Board take an action and deem the application incomplete. The items discussed must be submitted ten days prior to the next scheduled hearing date. This is not considered a change of use. Tavern uses are permitted to serve food. The Board of Health will require inspections prior to him opening up.

The Construction Official will do the review. Certain health codes will have to be met. It will require a direct inspection by the Health Department prior to him opening up.

Commissioner Fico made a motion to deem this application incomplete, seconded by Vice-Chairman McGrath and followed by a Roll Call vote. The application will be carried to March 24, 2004.

ROLL CALL: Ayes: Commissioner Yamoza, Gilbert, Frister, Bocchino, Shauer, Ruiz, Alderman Shuler, Vice-Chairman McGrath, and Chairman Hooper

Noes: None

SD-01-04 –Levitt Development Co., LLC, **Block 831, Lot 5** also known as 25 Hillside Avenue, located in the R-2 zone. The application is a two (2) lot Minor Subdivision to create one (1) new building lot with variances for pre-existing front yard setback on existing house, pre-existing side and rear yard setback for garage and maximum lot coverage for existing lot, and any other variances and waivers that may be required.

Lee Levitt was present as attorney. Mr. Steven Smith of Jaman Engineering, 320 Route 10 West, Randolph, NJ, will be testifying tonight.

Mr. Smith was sworn in and was recognized as an expert planner and surveyor. Mr. & Mrs. Vasquez are the owners of the property. Mr. Hantson advised that what is needed is an affidavit stating that both owners consent to the filing of the application.

A recess was taken at 9:33pm. The meeting resumed at 9:48pm.

ROLL CALL: Present: Commissioner Yamoza, Gilbert, Frister, Bocchino, Shauer, Ruiz, Fico, Alderman Shuler, Vice-Chairman McGrath, Chairman Hooper

Absent None

Still present is Board Attorney Lee Greb and Town Engineer and Planner, Mike Hantson

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Mrs. Vasquez was sworn in. She stated that she reviewed the application. Her signature was witnessed by Attorney Levitt this evening. A variance is required on the existing lot because of the garage. Mr. Levitt addressed the issues of Mr. Hantson's report. Mr. Smith reviewed the lot area and configuration. He advised that they were requesting to set the lot line straight and reduce the setback. A maximum of twenty-five percent building coverage on property is allowed by ordinance. When we subdivide the property into two lots; proposed Lot 5 will have 35.2 percent coverage. Mr. Smith reviewed the coverage of each building on the property. He advised that this is a five bedroom house and not three as indicated on the plans. That would require three parking spaces. Three cars can be stacked in the driveway plus a space in the garage would provide a total of four spaces. Mr. Smith suggested that they would remove the shed and remove the paver block patio which will reduce the impervious coverage from 81.6% down to 72.83 percent. That puts the impervious coverage at a little over 7% more that is allowed. The applicant was proposing to put a dry well in the front yard and tie a portion of the existing dwelling into the drywell to compensate for the excess impervious coverage that they have over what the ordinance permits. The existing front yard setback is an existing condition. Insufficient rear yard setback is an existing condition. Lot 5 was developed, Lot 6 was not developed. Regarding the number of levels; the calculations were not done in order to determine if the third level was a half or a full story. If based on the calculation that this is a three story house, it is a pre-existing condition and we ask that you accept the house as it is. Attorney Greb stated that the applicant must prove that it is a pre-existing condition otherwise; you will be intensifying the use and must go before the Board of Adjustment. By reducing the lot size, you intensify the non-conformity. The ordinance limiting the number of stories was adopted April 12, 1994. This is an issue of whether that level is classified as either a full or a half story. The physical make-up of the structure is what is in question. Driveway access for the new lot would be from Hillside Avenue. They propose to comply with the corner lot requirements and save the existing tree.

Cesar Vasquez, 34 Park Ave, was sworn in as well as his daughter Sandra Vasquez, 25 Hillside, who was acting as her father's interpreter. Mr. Vasquez stated that the cellar of the garage is empty. It is a one car garage. The door is a cellar door; a bilco cellar door that leads to a 4' x 4' room.

Mr. Smith stated that a dry well would be put in but could not give an exact location at this time. Sidewalk and curb will be replaced. The proposed lot will conform to the conditions of a single family dwelling. We are asking for a variance for the existing lot for the building coverage in excess and will remove the shed and patio, and install a drywell. A drywell will also be installed on Lot 6. The fireplace attached to the shed will also be removed. The lots, 5 & 6, were merged because the three foot side yard is less than the five required. Mr. Hantson stated that it is necessary to determine when the frame garage was constructed. If the frame garage went up sometime subsequent to the dwelling and at some time subsequent to the five foot side yard requirement; the garage could have been built as long as the lots merged. To build the garage the two lots would have had to merge. Nothing has to be done to merge the title of the lots. It merges because the three foot side yard is less than the five required. If the Board is going to consider granting a variance; to put it back to what is was, you need to know the history of how it became what it is. Is it a self inflicted hardship? The garage also violates rear-yard setback. Mr. Hantson asked, "Isn't it true, that you can have a conforming subdivision if the garage were removed?" The applicant advised that they are aware. Mr. Hantson asked if they wish to

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present testimony as to whether or not there is a specific hardship that exists in you not making this a complying sub-division” Mr. Levitt stated that the hardship is economic, the garage is a storage area, and the space can be used as a home workshop. Mr. Hantson also advised the Board that on accessory structures; the accessory structures are limited to parking of cars and the storage of items accessory to the principle structure to be used by residents of the principle structure. So, you can not take material from someone who lives down the street and store it in an accessory structure on the property. If the occupants of the house are using the garage for something that cannot be constructed if it was torn down to be conforming, than it would be appropriate. The monetary issue does not weigh heavily in granting a variance, this subdivision can be made conforming and you can have your cake and eat it too. If the garage were removed, the lot would comply with the impervious coverage requirement and the building coverage requirement.

Attorney Levitt requested that this matter be carried till next month in order to investigate the two and a half story means and do some further investigation regarding the issue of the garage.

Mr. Hantson advised that the presumption would be, unless specific conditions were put on it, the presumption would be that the lot would have to be developed in accordance with current regulations. The Board can consider that if the applicant wants to follow through with this variance, it may be appropriate for you to ask to see how the lot will be developed. If the garage is removed and they get rid of all of the variances and it becomes a cleaner application, then a development for the lot would not be required. Mr. Hantson also advised that at the rear of the garage, the northeast corner, there is a rather strange downspout configuration there. It would discharge on the new lot. If you continue to seek a variance for the garage, that cannot be there.

This portion of the meeting was opened to the Public.

Darren Carney, 21 Hillside Avenue came forward. His major concern was for the parking in the area. He stated that there is a room in the garage. He also stated that the new house, 19 Hillside is not on the tax map. He also stated that everyone was not noticed. Mr. Hantson stated that this is a lot that is not shown on the tax map as of yet. The tax assessor is in charge of the maps and at this time they are far behind. The property list however is correct as submitted.

This portion of the meeting was closed to the public.

Chairman Hooper advised that this case will be carried to the following month.

EWSP Committee Report None

OLD BUSINESS None

NEW BUSINESS Mr. Hantson advised that the County of Morris is undertaking a pilot study to analyze build out and they have chosen the northwestern communities of Dover, Wharton, Rockaway, and Jefferson. Paul McDougall and Mike Hantson attended a meeting previously and advised them that the town would be interested in taking part in the free study. They will come in to explain the study, how they will gather information, etc. and we need to schedule this. They will look at topography, wetlands, etc. For Dover, they will look at

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undeveloped land and the redevelopment potential. This will provide us with a lot of useful information. They will come to the meeting next month. We need to set up the agenda and we have one applicant. We would like to have the presentation first. We can request the applicant to complete his presentation within one hour. Mr. Hantson suggested that the County could come in at 9:00PM. It was decided to ask the County to come in at 7:30. This presentation is more of an approach of how we could approach certain issues before we start making decisions on Master Plan issues. It is information for your consideration. The law requires you to re-examine your Master Plan. It can be a one paragraph letter. You do not have to rewrite the whole plan. We have a list of all of the Planning documents that exists from the sixties to the present. You can review the material at anytime at town hall. The land use element of this town has not been redone since 1979.

DATES:

***REGULAR MEETING TO BE HELD FEBRUARY 25, 2004
AT 8:00PM. WORKSHOP SAME NIGHT AT 7:00PM***

ADJOURNMENT: The meeting adjourned with all in favor at 11:31PM.

IF ANY MEMBER CANNOT ATTEND, PLEASE CALL CLERK AT 366-2200-ext.115

Respectfully submitted,



Regina Nee
Clerk/Secretary
Planning Board