

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, October 28, 2009 at 7:00 p.m., at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Willard I. (Skip) Wilson- Chairman
Derek Wilson
Noel Malsberg
Dan Loeb
Mike Breitenfeld
David Dean

OTHERS

Mr. Al Fusco, Town Engineer
Mr. William Onofry, Town Attorney
Mr. Gary Flieger, Town Supervisor
Mrs. Viola Sinsabaugh, Town Board Liaison
Mr. Chuck Utshig, P.E.
Mr. Scott Bonacic, Esq.
Mr. Bill Zernhelt, Applicant
Mrs. Debbie Zernhelt, Applicant
Mr. Brad Cleverley, P.E.

THE PLEDGE OF ALLEGIANCE

BASHERKILL SUBDIVISION - DISCUSSION

Represented by Mr. Chuck Utshig, P.E.

BECAUSE OF A MALFUNCTION OF THE TAPE RECORDER, NONE OF THE BASHERKILL SUBDIVISION DISCUSSION WAS RECORDED

BILL & DEBBIE ZERNHELDT – PRE-APPLICATION CONFERENCE

Represented by themselves 856-8713

Owners/ Applicants Bill & Debbie Zernhelt are seeking a lot line change on property located on Yetter Lane, Sparrowbush, N.Y.

Section – Block – Lot =45- 1 -33.1

It is an HMU Zone.

Mr. Onofry did disclose the fact that his law firm does represent the Zernhelts on a real estate related matter.

Mr. Zernhelt distributed maps to the Board members. He said that he will buy the neighboring property, including the house, and would like to put an addition on the house. He said that he did receive a variance from the Zoning Board of Appeals, to move the lot line over 60'.

The Board agreed that there is no problem with this project, and accepted the application that Mr. Zernhelt presented to them.

Mr. Onofry said that there is a contract of sale, in place right now, and in connection with that contract of sale, the neighboring estate has granted

Mr. Zernhelt authority to proceed, with any and all applications. He said that as of next week, the Zernhelts' will officially own the property.

Skip Wilson asked the Town Engineer what his escrow amount will be for this application?

Mr. Fusco answered \$1,000.

Skip Wilson told the applicants that they will have to go into the Town Supervisors' office to provide the monies for the Town Engineers' escrow, and \$500. for the Town Attorney fees escrow

Skip Wilson said that no recreation fees will be due for this application.

Mr. Fusco said that tomorrow he will refer this applicants' maps and applications to both the Orange County Department of Planning and the Orange County Department of Public Works.

MOTION

Derek Wilson made a motion for the Board to instruct the Town Engineer to send the Zernhelt map and application to Orange County. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Breitenfeld, aye; Dean, aye; W. Wilson, aye. Motion carried.

The secretary was instructed to add this applicant to the December 9, 2009 agenda.

PEENPACK MEADOWS SUBDIVISION

Mr. Cleverley, engineer for the subdivision, is asking for a 6 month extension on his clients' conditional approval.

Skip Wilson read the Town Code, 213 (k)... "The time limit on conditional approval. Conditional approval on the final plat shall expire within 180 days, unless all conditions are satisfied and certified as complete. This period may be extended for not more than two periods of 90 days, where particular circumstances so warrant, in judgment of the Planning Board."

Skip Wilson said that this Board has already granted three (3) six month extensions already.

Mr. Cleverley referred back to a letter from Mr. Lipman, esq., to the Town Attorney, Mr. Glen Plotsky, dated May 21, 2009. He read: "After speaking with you, I reviewed the Subdivision Regulations of the Town, and Section 3.2.7, a provision that allows the Planning Board to revoke an approval, if the plat is not submitted within 6 months, or to grant a limited extension, provided that no preliminary plat shall remain valid, and the final plat has not been submitted, within 3 years." He said that in May 2009, the understanding was that the Board can go up to 3 years from the initial approval, which was May 8, 2007.

After a discussion, the Board and the Town Engineer and Town Attorney ascertained that the applicant has preliminary approval, not conditional final approval, and that the town attorney and the applicants attorney will have a dialogue to determine the status of this application,

MOTION

Skip Wilson made a motion to carry the Peenpack Meadows application over to the next meeting, November 11, 2009. Dave Dean second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Breitenfeld, aye; Dean, aye; W. Wilson, aye. Motion carried.

DEERPARK VILLAGE – DISCUSSION

Represented by Mr. Robert Krahulik, Esq.

Mr. Onofry said that there were faxes sent between the applicants' attorney and his office today, which explains the Board members getting the documents late this afternoon. He said that these documents clarify certain issues, and also modify the proposed language. He said that one of the specific changes, is the language that the Planning Board had requested, an alternative which is less than the 900 units. He said that Mr. Plotsky and Mr. Sachs, the applicants attorney, had an opportunity to discuss the language, and Mr. Plotsky wanted him to convey to this Board that he has no opposition to the language, as presented. He said that Mr. Plotsky thinks that based on the communications between the offices, this is the final document on where the parties stand on their respective requests, and it accurately reflects the position of each party.

Skip Wilson asked Mr. Fusco, if he had gotten a chance to work with the applicants' engineer?

Mr. Fusco answered that he had sent a letter to Mr. Parish, the engineer, and had spoken with him on the telephone, and was preparing to set up a meeting with Mr. Parish. He said that Mr. Parish indicated to him that there were some escrow issues that had to be worked out, and he said that he directed Mr. Parish to have his attorney speak with the Town Attorney. He said that as of this evening, he has not met with Mr. Parish.

Dave Dean referred to the email that the Planning Board members received from the Town Attorney, page 3, item c... "In the event that the Deerpark Village Associate consultant and Mr. Fusco cannot reach an agreement on said additions and changes to the FEIS, any disputes should be referred to the Planning Boards' attorney, the Deerpark Village attorney shall attempt in good faith to resolve the disputed issues, and if not able to do so, such issues shall be submitted to the court for final determination."

Dave Dean then read from page 4,.. "The Deerpark Village Associates shall be given an opportunity to review the draft findings statement. In the event the Deerpark Village Associates find any of its' provisions to be unacceptable, the issue shall be resolved in accordance with the process set forth, in 1-c above."

Dave Dean continued to read, ... "A findings statement shall be issued by the Planning Board, no later than 10 days after the Deerpark Village Associates have indicated its' acceptance of the provisions (after the decision by the court)." He said that this document means, that if the applicant does not agree with this Boards' findings statement, then they will automatically go to court. He said that the findings statement is the Planning Boards' statement, and how is that subject to approval by the applicant?

Mr. Onofry said that depending upon the findings that the Planning Board reach, it could impact the applicants.

Dave Dean agreed, and added that the Planning Boards' job, under SEQRA, is to go through the FEIS, look at all of the issues, options and alternatives, and then write a findings statement. He said that now the findings statement will be given to the applicant, and the applicant can disagree with various items, and go to court, if the Planning Board does not change those various items. Dave Dean stated that he does not agree with this process.

Derek Wilson read from the Lipman letter,... "In so far as item #5 is concerned, the three year expiration period is absolutely imperative, in order for our client to agree to reduce the maximum number of units from its' excess from 1,500 to 900." He stated his opinion that this is not logical, and the one thing has nothing to do with the other. He said that at the last meeting the Town Attorney had told this Board that it does not have the ability to extend the time frame.

Derek Wilson said that he was under the impression that immediately after the last meeting, that the Town Engineer would be in discussion with Mr. Parish, and get some issues ironed out in their review process by now.

Mr. Fusco clarified by saying that there were some issues with the previous escrow, and the applicant is unwilling to put forth that back money and new money, until issues are resolved. Mr. Parish said that there is no issue in Mr. Fuscus' end of it, but the issues are all with the previous town engineer.

ADJOURNMENT

Derek Wilson made a motion to adjourn. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Breitenfeld, aye; Dean, aye; W. Wilson, aye. Motion carried.

Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Barbara Broliier, Secretary