

The Deerpark Planning Board met for their bi-weekly meeting on Wednesday, March 26, 2008 at 7:00 p.m. at Deerpark Town Hall, Route 209, Huguenot, N.Y. The following were present:

PLANNING BOARD MEMBERS

Willard (Skip) Wilson -Chairman	David Dean	Gary Spears
Theresa Santiago	Noel Malsberg	Dan Loeb

OTHERS

Mr. Glen A. Plotsky, Town Attorney	Mr. Al Fusco, Town Engineer
Mr. John Fuller, Civil Engineer	Mr. Anthony Gioffre, Esq.
Mr. Chen Feng, Architect	Mr. Yitzchok Bernath, Applicant
Mr. Timothy Gottlieb, Gottlieb Engineering	Ms. Dianna DeLuise, Applicant

THE PLEDGE OF ALLEGIANCE

YITZCHOK BERNATH - PUBLIC HEARING - SECTION - BLOCK - LOT : 57 - 1 - 62

Represented by himself 914-906-4394

Owner/ Jonathan Flech

Applicant: Yitzchok Bernath wishes to open a welding business on property located at 24 Lime Kiln Rd., Town of Deerpark.

It is an HMU Zone.

Application received February 13, 2008

SEE ATTACHED PUBLIC HEARING RECORD

Applicant had submitted certified mailings of public hearing notice.

Dave Dean asked about the applicants' engineer dye test?

Mr. Bernath said that a report was submitted to the Board.

Al Fusco referred to his technical memo, dated March 24, 2008. He said that the applicants' engineer has followed up on all of Mr. Fusco's previous comments, and he said that he is satisfied with their response. He said that a response letter back to the Board from Orange County Department of Planning identified their concern about noise, which he said may be mitigated based on the business hours. Mr. Fusco said that the County raised a question about the fence, but it appears that the fence is set back far enough, so that setbacks should not be a concern.

Mr. Fusco said that the County raised a question about a possible area variance, because of the side yard. He said that in reviewing definitions contained in the Deerpark Zoning Law, Article 6, "Non-conforming use, Non-conforming building?", he said that he does not feel that a variance is necessary.

The Board agreed that this is a pre-existing lot and building, and no variance is needed.

The Board then made a review of the short form EAF filed on the project. The responses provided were accepted, and the Board reviewed all questions contained in Part II and answered "No" to all questions.

MOTION

Gary Spears made a motion for negative declaration under SEQRA. Dave Dean second. Roll call vote: Santiago, aye; Loeb, aye; Malsberg, aye; Spears, aye; Dean, aye; W. Wilson, aye. Motion carried.

Dave Dean explained the application and meaning of a Special Use Permit to the applicant, by saying

that a Special Use Permit allows him to operate for a period of time, and during that time he must meet the terms of the agreement between the Planning Board and himself. He said that at the end of that period of time, the Building Inspector will advise the Board as to whether or not there have been any infractions on the site, as per the agreement. He said that if there are no violations, then the Special Use Permit is automatically extended. However, if there are violations of the conditions of approval, the Building Inspector will come back to the Board and the violations will have to be rectified prior to re-issuance of a Special Use Permit, so that the applicant can continue to operate.

Dan Loeb said, concerning the dye test, that it should be substantiated by more than just a letter from an engineer stating that he walked around and threw a couple of tablets into a septic system. He stated that in his opinion there should be more validity to a dye test, because they can very easily be defeated, and it's more complicated than just throwing tablets into a toilet bowl. He said that the system could be pumped out, and it needs to be documented by some type of parameters.

Skip Wilson stated that the Board should look into this for the future.

MOTION

Dave Dean made a motion to grant the Bernath application for a Special Use Permit for a period of one year, based on technical comments by the Town Engineer being met and the payment of all fees. Gary Spears second. Roll call vote: Santiago, aye; Loeb, aye; Malsberg, aye; Spears, aye; Dean, aye; W. Wilson, aye. Motion carried.

Skip Wilson told the applicant to double check with the Town Supervisors' office that his fees are all paid, and he asked for site plans that he, as Chairman, could stamp as final.

EQUITY HOMES -PUBLIC HEARING - SECTION - BLOCK - LOT : 33 - 1 - 37.4

Represented by John Fuller 856-1536

Owner/Applicant Equity Homes wishes a 2 lot subdivision on property located on Route 42 (just South of Wilson Rd.), Sparrowbush, N.Y.

It is an RR Zone

Application received July 23, 2007

SEE ATTACHED PUBLIC HEARING RECORD

The Board decided, because there are two (2) days remaining in the required response period from Orange County Planning and NYSDOT, to have the applicant come back to ensure County input, in any. John Fuller asked that he be put on the April 23, 2008 agenda.

DIANNA DELUISE - PRE-APPLICATION CONFERENCE

Represented by herself and Montana Spillman - 914-414-7976

Owner / Dr. Newman

Applicant/ Norman Ransford wants to purchase the property, if it is possible to build residential Townhouses and/or condos at 1322 Route 209, Cuddebackville, N. Y.

It is an HMU Zone. Section- Block - Lot : 8 -1 - 17.21 & 17.22 and

Section- Block -Lot : 6 - 1 - 2

Applicant has spoken with the Building Inspector

Ms. DeLuise identified herself as a Real Estate Broker between the potential applicant and owner of the property. She said that there is 120 acres of property. She said that this is the Paradise Farms property, located on

Route 209.

Al Fusco disclosed that he had spoken with Dr. Newman 6 years ago and had looked at this property at that time. He said that the applicant has not, however, retained him to do anything. He said that he is familiar with the property, it can be divided into single family homes, and is possible to be subdivided. However he said that he has to re-check the Zoning Code, with relationship to townhouses.

Dan Loeb said that the Zoning Code provides for multi-family dwellings under "special uses".

Glen Plotsky said that, in reviewing the Zoning Law, one and two family dwellings are principal permitted uses, and multi-family dwellings are a specially permitted use. He said that it seems that the applicant can do either, subject to the density provisions that are provided elsewhere in the Zoning Law and Subdivision Regulations.

The Board advised Ms. Dianna DeLuise to research the Town of Deerpark Zoning Code, which can be found on the internet at www.townofdeerpark.org and/or purchased from the Town Clerk's Office.

GARY BUTLER - SUBDIVISION - SECTION - BLOCK - LOT : 27 - 1 - 16.22

Represented by Timothy Gottlieb, Gottlieb Engineering 794-5506

Owner/Applicant Gary Butler wishes a 3 lot subdivision on property located on Franke Rd., Huguenot, N.Y.

It is an RR Zone.

Application received April 30, 2007

Tim Gottlieb said that this is a re-submittal showing 3 lots with a cul-de-sac, that the Town Highway Superintendent was in favor of taking over. He said that there are some items missing on this new map.

Al Fusco referred to his technical memo, dated March 21, 2008. He said that his comments are basically run of the mill. He said that designation of lead agency needs to be addressed, and culverts, septic testing, details, the Orange County Health Department, etc. He said that because there's a proposed flag lot, then a note is required on the plan... "no further subdivision." He said that adjoiners and distances, etc. need to be addressed.

Dave Dean asked if there was any hunting clubs nearby?

Tim Gottlieb answered no.

The Board determined that no referrals have to be made at this time.

Theresa Santiago asked if they are going to use the old driveway, which is shown on the plan.

Tim Gottlieb answered that 2 new driveways will be used.

Al Fusco read from the Zoning Law, Section 3.6, paragraph 6, Item 3..."No right-of-way shall be established over an existing parcel of land to reach a new lot to the rear which would reduce the length of the front lot line of the existing parcel to less than 150'. Such front lot shall also front on the right-of-way serving the lot or lots to the rear." The plan, as drawn, appears to conform to that provision and Tim Gottlieb said that the applicant is agreeable to that.

MOTION

Gary Spears made a motion to schedule a public hearing for the Gary Butler application for May 14,

2008. Dave Dean second. Roll call vote: Santiago, aye; Loeb, aye; Malsberg, aye; Spears, aye; Dean, aye; W. Wilson, aye. Motion carried.

DRAGON SPRINGS BUDDHIST, INC.-SECTION - BLOCK - LOT : 31 - 1 - 21.22

Represented by Mr. Tony Gioffre, Esquire and Mr. Chun Feng, Architect
Owner/Applicant Dragon Buddhist, Inc. is seeking a revision to Site Plan # 5,
on property located at 140 Galley Hill Rd., Cuddebackville, N.Y.
It is an RR Zone.

Application submitted October 12, 2007.

Mr. Gioffre said that as requested at the last meeting, he submitted a letter, (dated March 14, 2008), outlining and specifying some of the issues that were discussed at the last Planning Board Meeting. He said that he also included in that letter a request for an extension of the time for the construction of the bridge at Gurda Road, as well as an extension of the Special Use Permit, specifically requesting that the Special Use Permit be extended for 3 years. He said that the other request that was made at the last meeting, was with respect to the wastewater treatment plant, and the Board wanting to see a letter from NYSDEC. He said that NYSDEC advised his client that they do not want to issue any documentation until they see the minutes from the Board's March 12, 2008 meeting. He said that the minutes were only available to his clients, as of Monday, March 24th. He said that even though the minutes were driven over to the NYSDEC office, they were not able to turn a letter around in 2 days, in time for tonight's meeting. He said that it is his understanding, based upon the discussions with Mr. Merriman at NYSDEC, that they believe that it was going to be a matter of Orange County Department of Health approval, not the NYSDEC. He said that he did receive earlier this evening, a copy of the Town Engineers' comments. He said that he believes that these comments are pretty straight forward, and that any of the issues can be mitigated as condition for approval.

Al Fusco said, referring to his technical memo dated March 21, 2008, that his office did receive some new material, which is listed on the front page, which did include some revised plans, a response letter, a revised long form EAF, a copy of the complete existing SPDES permit for the 9,500 gallons per day. He said that in addition, there are distribution calculations and manufacturer's cut sheets. He said that also, in relationship to the wastewater treatment plant, there are some engineering reports. He said that even though he was not looking at those reports in that relationship, he wanted to look at the information that the applicants had previously submitted to the NYSDEC, regarding the wastewater plant. He said that regarding on site sewage disposal, the applicants' did give his office copies of the mound system plans that had been previously approved. He said that also there is a cover letter from the applicants' attorney.

Al Fusco said that his office had looked at SEQRA, and asked that some changes be made. He said that there was one area in SEQRA, where it was made mention that 'no threatened or endangered species have been observed.' He said, however, the NYSDEC had indicated that there are species present in the general area. He said that the applicants had indicated that they were not on the property, but mostly associated with the river ecology and close to the river. He said, that when the applicants had re-done the EAF for the last meeting, they changed the number to 9,500 gallons per minute in their request, but the EAF form continued to say 11,000 gallons per day. He said that that was changed by the applicant now.

Al Fusco stated, that on the SEQRA form, Part 1, C-11, is an area where it asks if there will be any additional town services required, as a result of the granting of the approval. He said that the applicant had indicated that the proposed action may create demand for fire protection. He said, however, that their current fire protection systems do have the capacity to handle the demand.

Al Fusco said that in relationship to the plans and the reports that were submitted, he has several items on his technical memo. He said that one item is that the mound system currently utilized, was constructed in accordance with the Orange County Health Department approvals, but that the systems need to be inspected and certified by a New York State licensed engineer. He said also, the wastewater treatment plant proposed that the applicants are going to go to subsurface disposal, into the mound system, in accordance with the existing SPDES permit. He said, again, that is 9,500 gallons per day. He said that he believes that the NYSDEC should be notified and a letter directed to them, in that regard. He said that the applicants' representative tonight had indicated that they attempted to do that. He said that in meeting with the applicants earlier today, they had reinforced that, and indicated that they had sent a set of plans for the wastewater treatment plant to the NYSDEC office in White Plains New York, for their review, so that is pending.

Al Fusco said that in relationship to the Orange County Department of Health, they need to review the plans, and they had previously made note of the plans.

Al Fusco said that obviously, when you have a sewage treatment plant, the State requires that it be monitored. He said that depending upon the facility, the monitoring may be monthly, quarterly, bi-annually, or annually; but that monitoring needs to be continued. He said that there was a monitoring schedule for the 11,000 gallons per day in the draft SPDES permit, that had been given to his office, as representative of the testing, prior to the applicants reducing the flows to the 9,500 gallons per day. He said that he would assume that the monitoring schedule would be similar to that testing, such as BOD, suspended solids, PH, dissolved oxygen, and things of that nature. He said that testing needs to be continued as the NYSDEC mandates.

Al Fusco said that he had asked for the automatic valves to be in a chamber, and that detail should be supplied to his office, prior to installation. He said that basically since the applicants are taking the existing mound system and cutting off the flows at the septic area, and diverting them over to the wastewater treatment plant, and they're going to have a forced pump main bringing it back to the mound system, and at that point, it's going to be distributed to the distribution boxes, by way of the automatic valves. He said that he wants them to be in some sort of a valve chamber, where they are easily maintained, and he needs to see that detail, even as a shop drawing.

Al Fusco said that the facilities, meaning the wastewater treatment plant, should be inspected by the Town, and shop drawings of the plant supplied to his office, prior to construction.

Al Fusco said that it is his understanding that the Orange County Department of Health has a water supply application, pending on this. He said that that would obviously be a "subject to" condition of approval.

Al Fusco said that since the applicants do have a high "gallon per day" and high flows, that the Board should require annual inspections by themselves and a professional engineer, to demonstrate that the facilities are operating properly. He said that there may be any Board comments too, that may come out of this.

Al Fusco said that he had made a comment that there are several loose ends to be tied down, regarding the sanitary and potable systems, however, between the NYSDEC, Orange County Health Department and his office, he doesn't see any items that can't, technically, be worked out.

Dave Dean asked, is it typical for the Orange County Health Department and the NYSDEC to specify the monitoring increments?

Al Fusco answered yes. He said that they set those schedules. He said that it depends upon the “gallons per day” and the type of plant. He said of course, if they’re going into a trout stream, there are higher standards, and you have not only tertiary treatment, but you have more rigid sampling, and they tell you where to sample, that is, for example, downstream, 50’, 100’ a mile, and whatever the case may be. He said that each situation is a little different, and they set up their monitoring, based on the flows and the conditions and the type of plant.

Dave Dean said that he recalls, that initially the applicants will not be using the full 9,500 gallons per day. He said that it will not be operating at 100% capacity, and that means that some of the mound systems may not actually be functioning. He said that somebody has to lay down what those inspection periods will be, and the certification has to go through the town.

Mr. Gioffre said that that will be mandated, and his clients will comply with whatever the Board asks for.

Al Fusco said that the NYSDEC usually sets the monitoring schedule, and that’s why the Board needs a letter from the NYSDEC, indicating what they are going to do. He said that as part of the NYSDEC’s verbalizations to the applicants (Dragon Springs Buddhist, Inc.), and the applicants’ explanation to him (Fusco), he was told that the New Paltz, New York office had instructed them to send a set of plans to the White Plains, New York, who does the technical reviews. He said that the New Paltz Office does the permitting, and the White Plains Office, which is still a part of “Region 3”, but the White Plains Office does the more technical type of reviews, surveys and extensions, sewage treatment plants and things of that nature.

Chun Feng said that their P.E. went to Mike Merrimans’ office on Monday, and after a brief discussion, they said that it will be a DOH issue. He said that then they had asked him to write a letter, and he said no. He said that he had asked Mr. Merriman if he could mention that meeting to the Planning Board on March 26th, and he answered yes, and that the letter will need time to come.

Mr. Gioffre said that the technical issues will be coordinated with Mr. Fusco, and he asked that the Board will make these appropriate conditions for approval.

Glen Plotsky said that at the last Planning Board meeting, there was an inquiry as to whether or not another public hearing would be required, or whether an additional application would be required based upon the changes to the last submission that was made after the Board approved. He said that it seems to him that the wastewater treatment plant was on the original plan, then taken off for the purposes of a vote, and then put back on. He said that the remainder of the changes had to do with use, rather than size and functionality, and the only additional structure is a fairly small covered walkway. He said that as a result, he does not believe that the applicant has to submit an additional application, or that another public hearing would be required, unless the Planning Board feels otherwise.

Mr. Gioffre concurred with Mr. Plotsky, and he said that he had written in his cover letter that the Planning Board has the ability to waive those requirements.

MOTION

Dan Loeb made a motion that the Board amend the approval that was issued on February 13, 2008 to include the modifications that have been made to the submission since then, including adding back in the wastewater treatment plant, the covered walkway, and the minor changes to the use of the various facilities, and subject to certain conditions and requirements that the NYSDEC may place on the applicants, the Town Engineers’ comments and payment of all fees. Skip Wilson second. Roll call vote: Santiago, aye; Loeb, aye; Malsberg, aye; Spears, aye; Dean, aye; W. Wilson, aye. Motion carried.

MOTION

Dave Dean made a motion that the Board grant the extension to the original approved site plans for Dragon Springs Buddhist Inc., which included a Gurda Road extension improvement that was required, and was to be completed on or before June 1, 2008, and the applicant has indicated that that would not happen, and the applicant needs two more years, that is, until June 1, 2010 to complete that improvement. Gary Spears second.

DISCUSSION:

Gary Spears asked, what about the building permits?

Mr. Gioffre answered that it would just be an open building permit, and only needs the completion of the work, and the issuance of the certificate of occupancy.

ROLL CALL VOTE: Santiago, aye; Malsberg, aye; Loeb, aye; Spears, aye; Dean, aye; W. Wilson, aye. Motion carried.

Gary Spears said, concerning the time length of the Board approving the special use permit, doesn't the Board have to wait until June, 2008, with the ongoing one year special use permit, which was granted in June 2007, time is up?

Mr. Gioffre answered that once that period comes up, the Building Inspector issues his report, and the applicant would not have to appear before the Board, and the special use permit would be renewed automatically. He said that at the last meeting, the Board had said, well you'll be here at the next meeting anyway, why don't you include this request at that time.

Gary Spears repeated that he would prefer to wait until June 2008, until at such time, the Building Inspector will issue his report on this applicant.

Mr. Gioffre said that if the Building Inspector was required to, and the Board requested it, that the Building Inspector issue a report indicating that everything is status quo. He said that being that the applicant has been before this Board so often, within the last year, that if there were problems or issues of violations on the premises, obviously the Planning Board would've heard about them.

David Dean said that the problem is that the Board hears so many things, that they would like to just hear from the Building Inspector himself, and get his report first hand. He said that he agrees with fellow Board member Gary Spears on this issue.

Glen Plotsky said that based on the fact that Mr. Gioffre has made this request, that the Board recall when the approval comes up, (that is approximately June 14, 2008), that the applicant has requested an increase from one year to a three year special use permit.

Dave Dean said that pertaining to the sewage treatment plant, his inclination, would be to only issue a one year special use permit, because this is a totally different scenario, when it comes to a septic design, and it's very important that the treatment plant is installed and running properly.

Mr. Gioffre responded that the NYSDEC does regulate the plant, and he understands the Boards' concern, however, he said that he does not believe that it will be a real issue, given the monitoring. He repeated that he would like to keep the request at three years.

COMMUNICATION AND CORRESPONDENCE FROM THE BOARD MEMBERS HIGHLAND OPERATING LLC

Dave Dean said, concerning the letter that the Board received from Orange County Planning, they said

in that letter that essentially they want a well drilled on lot #3. He said that the letter said, that they typically do require that neighboring wells be tested.

Al Fusco said that he has commented on that letter also. He said that they basically said that they don't require that the neighbors wells be tested., unless, through the SEQRA process, that the Planning Board has an indication that that needs to be a consideration. He said that the decision is back on the Planning Board shoulders. He said that he had gotten the request from the applicants' engineer, asking if the Planning Board is going to require that the neighbors' wells be tested, and based on the last meeting with the applicant, and the Planning Boards' opinion, he said that he had indicated to the engineer, that it will be decided on a case by case basis.

Dave Dean said that in that letter, it was noted that there is a waste facility nearby to that property. He said that he has lived in this area all of his life, and he knows of no waste facility or dump, or whatever, located near this property.

Al Fusco said that he will research that, and find out what the letter refers to, and get back to the Board.

Dan Loeb said, concerning the Highland Operation LLC public hearing, that an adjoiner had spoken about concerns about the well situation, and Dan Loeb said that he believes that the Planning Board should, at some point, discuss the parameters that would set off the need for testing neighbors' wells for future applications.

Skip Wilson answered that if someone has a concern of this nature, on an application, that the Board should at that time, take a look at the situation, and come up with a solution for that particular application at that particular time.

ADJOURNMENT

David Dean made a motion to adjourn. Gary Spears second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; Spears, aye; Dean, aye; W. Wilson, aye. Motion carried.

Meeting adjourned at 8:21 p.m.

Respectfully submitted,

Barbara Brollier, Secretary