

The Deerpark Planning Board met for their bi-weekly meeting on Wednesday, April 23, 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

Derek Wilson

Noel Malsberg

OTHERS

Mr. Glen A. Plotsky, Town Attorney Mr. Al Fusco, Town Engineer

Mr. Gary Flieger, Town Supervisor

Mrs. Viola Sinsabaugh, Town Board Liaison

Mr. William A. Onofry, Esq.

Mr. Ralph Moscolo, Applicant

Mr. Brad Cleverley, P.E.

THE PLEDGE OF ALLEGIANCE

FIRST ASSEMBLY OF GOD CHURCH - PRE-APPLICATION CONFERENCE

Represented by Rev. Joe Montage 856-1826

Owner/ James Stack

Applicant/ First Assembly of God church wishes to purchase the property located across from the exit ramp off of eastbound I-84 (property is off of N.J. Route 23).

It is an IB Zone.

Neither Owner nor Applicant appeared.

MARTEL HOLDINGS LLC - PHASE II - Section Block Lot = 23 - 1 - 62.32

Represented by Mr. William A. Onofry, Esq. 856-51678

Owner/Applicant Martel Holdings LLC wishes a 16 lot subdivision on property located off of Wilson Rd., and Hawk Mountain Rd., Sparrowbush, N.Y.

It is in the Recreational River Corridor (RRC) Zone.

Application submitted October 11, 2007

Mr. Onofry said that he has submitted a proposed sketch plan pertaining to the subdivision, in order to get comments from the Board tonight. He said that since the last meeting with the Planning Board, he went before the ZBA seeking relief, with respect to a variance for a cul-de-sac, (based upon proposed length of cul-de-sac in excess of length permitted by Subdivision Regulations).

Mr. Onofry said that in discussions with Mr. Plotsky, they came to the conclusion that based on the regulations as written, the ZBA has no authority over the Subdivision Regulations, and therefore, seeking a variance before the ZBA would be of no use.

Mr. Onofry said that his client is now back before this Board with a different sketch plan. He said that he had briefly read the Town Engineers' comments. Mr. Onofry said that some comments relate to the location of the proposed septic systems for lots A, B., C, D, E, F, & G on this sketch plan. He said that this is just a proposal, and if his client were to move forward with this proposal, there would obviously be a more detailed map forthcoming.

Mr. Onofry said for clarification, lots 1-7 are part of a previous subdivision. He said that Mr. Fusco's comments will be given to the project engineer, Mr. Gottlieb, so that distances from wells to septic systems, as well as other required information, can all be indicated on the new maps.

Mr. Onofry said that in response to Mr. Plotsky's letter to the Board, that with the submission of this proposal, Mr. Onofry's client does not seek to pull a fast one. Mr. Onofry said that Mr. Martel has been before the Planning Board with various proposals throughout the years.

Mr. Onofry said that the proposed dead end road that abuts lands that are owned by Shenayim Ltd., really stem from a suggestion of his own, after reading the Regulations. Mr. Onofry said that he believes that there is some ambiguity with respect to the Subdivision Regulations that allow for a dead end road. He further stated that it is his opinion that the sketch, as proposed, aside from the length of the road, which may not conform, is in compliance with the Town of Deerpark Subdivision Regulations.

Mr. Onofry stated that the sketch utilizes a dead end road that abuts an adjoining parcel. He said that there is no language in the Subdivision Regulations that actually says that an adjoining parcel has to be part of a secondary phase. He said that there is no language in the Subdivision Regulations that says that an adjoining parcel has to be owned by the applicant in question.

Mr. Onofry continued, and said that because of the language contained within the Subdivision Regulations, the regulations appear to contemplate different roads, for example, dead end roads and a cul-de-sac. He said that they are not one and the same.

Mr. Onofry said that it is possible to come before this Board and seek a waiver for a 1,600' cul-de-sac. Mr. Onofry indicated that he is also aware of the various Board members' opinions previously expressed. Mr. Onofry indicated that in order to receive such a waiver, a majority of the Planning Board would have to approve the waiver.

Mr. Onofry said that he would just like to see tonight how the Board stands on this latest proposal, and answer questions, so that he can better serve his client and work with the engineer, and try to come up with a plan that works.

Derek Wilson asked, you previously showed an 800' cul-de-sac where your client proposed 8 lots, and with the 1,600' cul-de-sac, you're now showing 9 lots?

Mr. Onofry answered that he will have to check his records.

Mr. Onofry said that the 1,600' cul-de-sac idea primarily stems from the fact that this is a mountainside parcel, and his client likes the idea of greater road frontage than that which is required in the regulations. He said that a shorter cul-de-sac is permissible, but would require the creation of flag lots and some other configurations. He said that the idea is driveways into the lots, using access created between lots 6 and 7, and providing a road that uses the topography as best as possible.

Derek Wilson said that the idea of a stub going out, would be the idea of making a through road (through the adjoining parcel owned by another).

Mr. Onofry said that in speaking with Mr. Plotsky, it would be preferable if he could show the Board what the next phase is, however, right now his client doesn't have the money to buy the adjoining parcel that Shenayim Ltd. owns and has listed for sale, nor does his client have any knowledge about the current owner's intentions.

Gary Spears asked Mr. Onofry if he has run this sketch plan by the Highway Superintendent?

Mr. Onofry answered no, not this proposal.

Gary Spears commented that he believes that Mr. Hughson would have a major problem with the current proposal, and that the Board would require his input before expressing any opinion.

David Dean asked, how big is that adjoining parcel?

Mr. Onofry answered 94 acres or so. He said that the gentleman who owns it, bought it for speculation purposes, and had come before this Board for a preliminary subdivision, without a plan for a layout of a road. He said that that parcel does have frontage on the (Route 97) lower end of Wilson Road.

David Dean said that if Mr. Martel could substantiate that the possibility is greater, rather than less likely, that that piece of property could be subdivided, and that road would be continued through the parcel for access, and then come back onto Wilson Road, he said that he would have a more favorable view of this sketch plan.

Mr. Onofry said that Mr. Martel likes the idea of a cul-de-sac, because it's controlled by the owner, from his perspective, such as limited traffic, etc. He said that if he were the owner of the 94 acre parcel, he would be very happy with the idea that this dead end road runs up to (his) property, because it offers opportunities of other means of ingress and egress.

David Dean said that the down side of that idea is if another cul-de-sac is created.

Gary Spears also stated that an access road would have to cut through those 94 acres in order to build off of this, and a nearly 2,000' cul-de-sac is not an option.

Derek Wilson said that he does not like the idea of a stub, unless Mr. Martel is showing an involvement plan for the adjoining 94 acre property. He said that in looking at the history of this subdivision, which started approximately 20 years ago, it's taken that long to clean up the cul-de-sac that never got paved on the first section. He said that with the housing economy in a slump now, it may be years before he may even have one house sold.

Gary Spears asked, if the neighboring parcel proposes a road from the end of the 1,520' stub road with a cul-de-sac built off the stub road where it "T's" off on the submitted drawing, could Mr. Martel just provide a right-of-way and not actually build or complete that road to the property line. He asked whether then, in language contained in the sale documents the next person who subdivides the next parcel, if they're going to use that spur, they have to make it a through road on onto the other end of Wilson Road, is that possible? Is it possible to require the adjoining land, not owned by the applicant, to be "tied" to this approval? He said that if given a legal right-of-way, when/if that future parcel is developed, and is needed as a through road, then the future owner would pay for that through road.

Mr. Onofry said that his client has the responsibility of clearing and grading it, and getting it into position to create such a through road.

Gary Spears agreed with Mr. Onofry and said, would he then give a legal right-of-way to the Town?

Derek Wilson said, however that approving such a proposal would open up the possibility for a cul-de-sac of any length anywhere in the Town.

Mr. Onofry said that that would not set a precedent that this would be a cul-de-sac, because it's a proposed road to a future development. He said that if the Board uses that language, then they are not setting a precedent for an extended cul-de-sac. He indicated on the sketch plan the proposed cul-de-sac of 480' with another "stub" for a through road, not a second cul-de-sac.

Derek Wilson said that the previous Town Engineer interpreted that if a loop is coming back onto itself, that's considered legally a cul-de-sac.

Gary Spears said that for long range planning, this Board can make an applicant create a through road, which is much better off for the Town.

Mr. Plotsky said that that would put a restriction on someone else's property, in order for Mr. Martel to get a subdivision. He said that a better idea is to have the owner of the 94 acre property agree with Mr. Martel's plan, that is, get a commitment from that landowner, that they will understand and approve that the development or subdivision of their property is going to require the "tie-in" of a through road to Mr. Martel's

proposed road, and then that would address that issue.

Mr. Plotsky said that a deeded right-of-way, with a note on the map, might be accomplished that would satisfy the requirements of the subdivision regulations.

Mr. Plotsky said that if you have the adjoining property owner committed to using the “stub” then it becomes more realistic to accept as a dead end road with a cul-de-sac from it, as opposed to viewing it as two (2) cul-de-sacs from one (1) primary road.

Derek Wilson said that the Board has to look at the reasons for trying to avoid a cul-de-sac over a certain length.

Mr. Plotsky said yes the Board does, but also he has to look at the Law as it’s currently written.

Mr. Onofry said that this is just sketch plan tonight, and this will be an alteration of the existing Planning Board application.

Derek Wilson said that the previous Town Engineer had Mr. Martel design a road that came all the way down, to justify the lot count. He said that Mr. Martel came back with the 800’ cul-de-sac.

Mr. Plotsky said that Mr. Martel did actually come back before this Board with the road that the previous Town Engineer had requested, but the difficulties were that there were issues with regard to the cuts that would be required in order to get the road to be an appropriate grade.

Mr. Onofry said that one of the major issues was that the road would cut through the ridge line, and the NYSDEC wants to preserve the ridge line and the eagles, etc.

Al Fusco said that the primary access is very steep, and that needs to be addressed in relationship to whether or not the applicant is going to be able to do it within that 50’ right-of-way, or whether grading easements will be required out of lots 6 and & 7. He said retaining walls may also be required. He said that the Town Highway Superintendent also needs to be involved, because the curve shows to be a little bit steep for the incline and the curve at the same time, which is not an ideal situation.

Al Fusco said that in relationship to bringing the road back over to the adjoining property, he said that he has seen it done in other instances in a number of different ways. He said that one idea is not to build it to standard, and then have the future owners complete the construction with language in the approving documents where it will be stated that the road is to be deeded to the Town only after improvements have been made by others. He said that language would have to be written to that effect, so that it would be enforced.

He said that another idea is to have the applicant access USGS maps to see if it is even possible to bring that road through, at a grade that is acceptable to this Board and the Highway Superintendent. He said that these needs to be addressed before a concept proposal can come back before this Board.

Al Fusco said that the grade off site needs to be looked at as well.

Derek Wilson indicated on the map and asked whether, referring to lots 1 through 7, has Mr. Martel considered making the road loop around through here?

Mr. Onofry answered that his client has looked at the idea of a loop road, and the only proposal that he personally has seen, is where the road bends back up toward the north and runs closer to the parcel (designated on the map as lands of formerly Wilson). He said that he will ask his client once again, if he’s considered Derek Wilson’s proposal.

Mr. Plotsky said that a performance bond will need to be posted, to insure that the road will be done.

Derek Wilson said that if Mr. Martel is looking for a variance from this Board for a longer cul-de-sac, (longer than the 800' regulation), he would benefit if he could come up with a lot configuration that contains a cul-de-sac that was closer to the 800', to justify the number of lots that he has.

Mr. Onofry said that he will make that suggestion to his client. He said that he will talk with him about the idea of a shorter cul-de-sac, but he doesn't know if the applicant will go for it. He said that the Regulations as written seem to provide for this proposal, or something very similar, with a dead end road.

David Dean asked if the applicant has been in any negotiations with the owner of the 94 acre property next door? Mr. Onofry answered no.

Derek Wilson asked if the applicant is restricted, so that he cannot create any more flag lots.

Mr. Plotsky answered that he will have to check into that.

Mr. Onofry answered that that was possibly on the Aadal subdivision as opposed to on any Martell subdivisions.

Derek Wilson asked about the cul-de-sac that is proposed to be built on the lower portion - how does the applicant take the lot depth and lot width on cul-de-sac lots?

Al Fusco answered that he will get that answer back to the Board.

Mr. Onofry was told that his client still needs to establish an escrow account of \$1,000. with the Town Supervisors' office, for payment of accrued legal fees for his project.

PEENPACK MEADOWS SUBDIVISION

Represented by Mr. Brad Cleverley, P.E.

Applicant received preliminary conditional approval on May 8, 2007, and is asking for an extension of that approval.

Mr. Cleverley was told that his client still needs to establish an escrow account with the Town Supervisors' office, for payment of accrued legal fees for this project.

Mr. Plotsky said that \$500.00 should be enough, as this project is almost completed.

Mr. Cleverley said that his client is still waiting to hear back from the New York State Department of Health (NYSDOH) about additional water testing.

David Dean asked if there was any limit to the Boards' granting of extensions.

Mr. Plotsky answered no, preliminary approval is basically good for 6 months, but can be extended at the applicant's request. He said that the final approval has a 2 extension limit.

MOTION

Gary Spears made a motion to grant a 6 month extension, from May 8, 2008, for the Peenpack Meadows Subdivision preliminary approval conditioned up the posting of \$500 in a legal escrow account with the Town Supervisors' office. David Dean second. Roll call vote: Malsberg, aye; Wilson, aye; Spears, aye; Dean, aye; W. Wilson, aye. Motion carried.

RALPH MOSCOLO - PRE-APPLICATION CONFERENCE

Represented by himself

Owner/ Applicant Ralph Moscolo is seeking a lot consolidation on property located in Myers Grove, Godeffroy,

N.Y.

It is an NR (Neighborhood Residential) Zone.

Applicant has spoken with the Building Inspector.

Mr. Moscolo said that there are 4 lots, which he wishes to consolidate into one lot.

The Board looked at the applicants tax map, and determined that this will not be a difficult application for Mr. Moscolo. Derek Wilson outlined the steps that Mr. Moscolo will have to do, in order to complete the lot consolidation process, and the attachments needed to be submitted with the application and application fee of \$225.00.

Mr. Plotsky said that the applicant will have to establish a \$500.00 legal escrow account with the Town Supervisors' office.

The secretary handed an application and "Article 8" requirements to the applicant.

COMMUNICATION FROM BOARD MEMBERS

HIGHLAND OPERATING SUBDIVISION

David Dean asked about the Highland Operating Subdivision on Boehmler Road, that the County had written the Board about a "hazmat" area for a seepage septic pit. He asked where is that on the property?

Al Fusco answered that he was advised that there was a honey-dipper lagoon on the property. He said that in talking with the County Health official, he doesn't have a specific location. He said that the County had it listed as an approved disposal site. He said that he will attempt to get that exact location for the Board.

ADJOURNMENT

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

Meeting adjourned at 7:45 p.m.

Respectfully submitted,

Barbara Brollier, Secretary