

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, May 14, 2008 at Deerpark Town Hall, Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Willard I. Wilson, Chairman*- arrived at *8:00 p.m.
Theresa Santiago
Noel Malsberg

David Dean
Dan Loeb

OTHERS

Mr. Glen A. Plotsky, Town Attorney
Mr. Gary Flieger, Town Supervisor
Ms. Tara Grant, Applicant
Mr. Scott Bonacic, Applicant
Mr. Jeff Clune, Citizen

Mr. Al Fusco, Town Engineer
Mrs. Viola Sinsabaugh, Town Board Liaison
Mr. John Fuller, Civil Engineer
Mr. Chuck Utschig, P.E.

THE PLEDGE OF ALLEGIANCE

TARA GRANT – PRE-APPLICATION CONFERENCE

Represented by herself

Owner/ Applicant Tara Grant wishes a lot consolidation on property located off of Lakeview Dr., Cuddebackville, N.Y.

It is an HMU Zone. Section – Blocks – Lots = 21 – 18 & 20 – 3.21 & 5

The Board looked at the survey map that the applicant presented. She said that “Ontario Drive” is a non-existing road. She said that her house is the “one story framed dwelling” noted on the map. She tried to explain how the road loops around and comes back in front of her house and is next to Lakeview Drive.

The Board said that the road is a type of driveway for the applicant

She presented the deed to Mr. Plotsky.

Mr. Plotsky said that he has to see the original subdivision, and that he will research the properties and roads.

The Board determined that this application will be a 2 lot subdivision, and then a lot consolidation.

The Board told the applicant to come back for an extension of her pre-application conference on May 28, 2008 at 7:00 p.m.

EQUITY HOMES – SECTION – BLOCK – LOT = 33 – 1 – 37.4

Represented by John Fuller, P.E.

Owner/ Applicant Equity Homes is seeking a 2 lot subdivision on property located on Route 42, Sparrowbush, N.Y.

It is an RR Zone.

Application received July 23, 2007.

Mr. Fuller said that the public hearing was held on this application on March 26, 2008 and now he is addressing some issues that were raised at that public hearing with the submission of these new maps.

Mr. Fusco reviewed with the Board and Mr. Fuller, his comments for this project. He said that Mr. Fuller did address all of his prior comments except two. He said that verification that the Town Attorney had reviewed the maintenance agreement still needs to be done. He said that Section 4.9.18 of the Town Zoning Code concerning private drives, more than two single family dwellings and says that the Town needs to be given satisfactory evidence in the form of a restrictive covenant that private status will be permanent and it wouldn't become an application for a town road.

David Dean asked if that would be a part of the deed?

Mr. Fusco answered yes.

The Board reviewed Part II of the Short Environmental Assessment Form (SEAF) and answered "no" to all of the questions.

MOTION

David Dean made a motion for negative declaration. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; Dean, aye. Motion carried.

Mr. Plotsky disclosed that his office has done and still does work for this applicant. He said that his office will both be preparing and verifying the driveway maintenance agreement. He said that there will be two deeds and he will incorporate the language relative to the private drive.

MOTION

Dan Loeb made a motion for conditional final approval conditioned upon the applicant meeting the conditions of the Town Engineer and the payment of all fees. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; Dean, aye. Motion carried.

RICHARD HAGEN SUBDIVISION – SECTION – BLOCK – LOT = 24 – 2 – 43

Represented by John Fuller, Civil Engineer

Owner/ Applicant Richard Hagen wishes a 3 lot subdivision on property located off of Hagen Rd., and Route 42, Sparrowbush, N.Y.

It is an RS Zone.

Application received May 1, 2008.

Mr. Fuller said that it's an 87 acre parcel that is "naturally subdivided" by NYS Route 42, although he concedes that the Town of Deerpark DOES NOT recognize "natural subdivisions". He said that Hagen Road is a town road that wraps through the parcel. He said that this particular piece of land is in the name of Rosina Farms LLC, which is owned by a corporation that is managed by Richard Hagen.

He said that the family wishes to create a 3 lot subdivision. As part of the subdivision, the 42 acre piece which is north and west of Route 42 would be broken off from the remaining parcels. He said that the parcel which is south and east of Route 42 would be separated into two pieces; one being 38 acres, and the remainder would be the other piece on which Mr. Hagen's father still lives.

Mr. Fuller explained that there are currently two dwellings on the southeasterly piece, so as a result of the subdivision, if approved, each dwelling would remain in its present location, but on separate lots. He said that the 42 acre parcel could sustain a house, according to soil testing which demonstrates that septic and well and driveway could be done. He said that he understands that there is no plan to further subdivide this 42 acre piece. He said

that the family's intention is to keep the southeasterly piece that is being subdivided into two lots, and then the northwesterly 42 acre piece would be sold.

Mr. Plotsky said that Mr. Fuller still needs to date the application, and also indicate the county on the deed and the date of notarization. He said that a note should be put on "sheet 1" of the plans, that the trailer has already been removed. He asked what would be the official name of this project, since several names are mentioned? John Fuller answered that it would be the Hagen Subdivision.

Mr. Fusco went over his review letter on this application. He said that he likes to see site distances on the map, He said that when the septic systems are put in, he likes to see a letter certified by the engineer concerning the backfill. He said that a note needs to be put on the map that the trailer was removed. He said that the wetland professional who is involved in the project should be identified and listed on the plan. He said that the existing wells, sanitary systems and driveways all need to be shown on the map. He said that erosion control notes and details need to be added. He said that referrals need to be sent to the Orange County Department of Planning and the DPW.

Mr. Fusco said that AASHTO is the American Association of State Highway Transportation Officials, and it's a nationwide organization that sets the standards for site distances.

MOTION

Dan Loeb made a motion to schedule a public hearing for the Hagen application on June 25, 2008. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; Dean, aye. Motion carried.

BASHERKILL SUBDIVISION

Represented by Mr. Scott Bonacic and Mr. Chuck Utschig, P.E.-CMX Engineering

Mr. Bonacic said that it's been 2 ½ years since this application was last before the Planning Board in 2005 and based upon that last appearance, there were significant public comments and public written documents. He said that as a result, CMX Engineering had drafted a DEIS, which was submitted for review. He said that he did receive significant comments back from the Town Engineer, and as a result of those comments, coupled with the public scoping hearing, this latest DEIS has been compiled, which has been submitted to the Board.

Mr. Bonacic said that his purpose here tonight is to see if the Board can deem this DEIS complete, so that the circulation can be started, and the public hearing process resumed. He said that the packet that was submitted to the Board, is updated inserts which can be put into the large binder which the Board members received several year ago.

Mr. Bonacic reviewed for the Board by saying that the densities that are being sought are for the PRD designation, which requires the applicant to go before the Town Board as well. He said that essentially the PRD allows the applicant to take the base densities, and if the threshold is met, the density can be increased up to 20% above the calculations. He said that they have presumptions in their calculations that the project would be placed within a PRD designation with the PRD calculations for density and related issues, for the purpose of SEQR and the DEIS,

Concerning the list of interested agencies, the Board requested that the Port Jervis School District be added.

Noel Malsberg asked about the language in the Zoning Code, Section 5.3.3

Mr. Fusco read Section 5.3.3: "General Requirements: Location: (a) A PRD District may be permitted within HMU and RR Districts. (b) Minimum site area: A PRD district should comprise at least 800 contiguous acres of land, except for retirement housing projects, which shall require 200 contiguous acres of land, although lesser sized tracts may be approved at the discretion of the Planning Board and Town Board. (c) Density and open space. The density and open space standards applicable to conservation subdivisions shall also apply to all PRD projects. (d) Utilities. All uses situated in a PRD District shall be served by community water and sewage systems. All water,

sewer and gas lines (where available) and all other lines providing power and communication service shall be installed underground in the manner prescribed by the appropriate state and local agency and/or utility company having jurisdiction. (e) Permitted uses. All residential uses, except mobile homes, hotels, motels and resorts shall be permitted in PRD Districts. (f) Other zoning regulations. With the exception of lot and yard requirements which may be waived or modified by the Planning Board, the PRD District shall comply with all other provisions of the Law. No modification or waiving of density standards generally applicable to PRD Districts shall be permitted. Density for nonresidential uses shall be determined on the basis of projected sewage flows, with an equivalent dwelling unit having that amount of flow normally associated with a one-family residential dwelling. (g) Ownership. The land proposed for a PRD District may be owned, leased or controlled either by an individual, corporation or by a group of individuals or corporations. PRD District applications shall be filed by the owner of jointly by all owners of the property included in the application. In the case of multiple ownership, the approved plan shall be binding on all owners. (h) Organization. A PRD District may be organized as a condominium, a cooperative, a leasehold, or held in individual or corporate ownership. If a property owners' association (POA) is to be established, and one shall be required if any property is to be held in common, such POA shall be organized as provided for conservation subdivisions in the Town Subdivision Law."

Noel Malsberg said that the Planning Board however, has the discretion as to the size of the project. Mr. Fusco agreed, saying that it's at the discretion of the Planning Board and the Town Board.

David Dean asked Mr. Bonacic if he has established any meetings with the Town Board yet?

Mr. Bonacic answered no, although discussions have been held in the past about how the Zoning Code is written and pertains to this project. He said that the process is, that they will, hopefully, get a recommendation of a PRD from this Board and take it to the Town Board. He said that the Town Board cannot take an action on that recommendation until the SEQR process is completed.

Mr. Bonacic said that the best action would be for the DEIS to be deemed satisfactory and distributed. He said that they would like to open the DEIS for public comment and then do the referral process to the Town Board. He said that there is value in getting feedback from all of the involved and interested agencies, so that as the Planning Board starts to formulate their plan, they get the benefit of the other agencies.

Mr. Utschig said that the comments are set up into two categories. Some are site related and will be dealt with at the appropriate time. Some comments are actually answered in the FEIS, such as, why are there road slopes that are 12% more than 25', and the applicant would like the opportunity to answer that question, and move forward in the process.

David Dean asked, how does the Board get this document distributed as quickly as possible?

Mr. Fusco answered that he needs at least two more weeks to review the document, and said he will respond with a list of items that possibly still need to be addressed.

Mr. Utschig asked if Mr. Fusco could categorize the comments.

Mr. Plotsky said that after the Board deems the document complete, then it will be scheduled for a public hearing.

The Board agreed to put this application on their June 11, 2008 agenda

DEERPARK OIL

Represented by Jeff Clune

The applicant asked to speak with the Board, and presented final maps for the Chairman to stamp.

Jeff Clune also asked the Board about putting in an L.P. storage facility at his terminal in Sparrowbush. He said that he would like to install two or three 30,000 gallon tanks.

Mr. Plotsky told Mr. Clune that he would have to have his professional review the Town Zoning Law to see if it is even allowed in the zone in which the facility is located. He said that it would probably be a specially permitted use. He said that if it is not included, as an allowed use in that zone, whether as use by right or specially permitted use, then under the Deerpark Zoning Law, the proposed use would be prohibited.

Mr. Clune said that he will schedule a pre-application conference for this proposed project.

COMMUNICATION FROM THE TOWN ENGINEER

RIVER COUNTRY TOWN SQUARE

Mr. Fusco said that he had written a letter concerning the River Country Town Square project, disclosing that his engineering firm has hired the applicant's engineering firm (similar to a subcontractor) in the past to do work for him.

COMMUNICATION FROM THE TOWN ATTORNEY

DEERPARK GREENS

Mr. Plotsky said that he had received a letter from James Stack who had been before this Board in the past, representing the Deerpark Greens proposal. He said that the engineer for the project wrote that in order to get the density to get the numbers that they need, it would require a zone change. He said that the applicants however, have a deadline of May 31, 2008, for their contract for the property, and they are asking the Planning Board to recommend to the Town Board that a zone change be permitted, so that they can extend their contract to purchase the property.

Skip Wilson said that Mr. Stack had contacted him, and he suggested to Mr. Stack that he write a letter to this Board, detailing exactly what they want. He said that the property is approximately 40 acres.

The Board agreed that the normal sequence of events should be honored for everyone, and there should not be an exception. The applicant should just have to work with his people to get them to grant an extension of their deadline.

Mr. Plotsky said that he will write a response letter back to the applicant with the Boards' decision.

THE BOARD TOOK A 5 MINUTE BREAK

EXECUTIVE SESSION

Theresa Santiago made a motion for the Board to go into executive session for the purpose of discussion of potential litigation regarding engineering fees, and invite the Town Supervisor, the Town Attorney, the Town Board Liaison and the Town Engineer. Noel Malsberg second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; Dean, aye; W. Wilson, aye. Motion carried.

The Board went into executive session at 8:40 p.m.

Theresa Santiago made a motion for the Board to come out of executive session. Noel Malsberg second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; Dean, aye; W. Wilson, aye. Motion carried.

The Board came out of executive session at 9:25 p.m.

ADJOURNMENT

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

Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Barbara Brollier, Secretary