

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, June 24, 2009 at 7:00 p.m. at Deerpark Town Hall, Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Willard I. (Skip) Wilson- Chairman
Derek Wilson

Dan Loeb
David Dean

Theresa Santiago
Noel Malsberg

OTHERS

Mr. Glen A. Plotsky, Town Attorney
Mr. Alfred A. Fusco, Jr., Town Engineer
Mrs. Viola Sinsabaugh, Town Board Liaison
Mr. Anthony Gioffre, Esq.
Ms. Lana Han, Esq.

Ms. Christine Mann, Applicant
Mr. Chris Nealon, Applicant
Mr. Bob Schurr, Applicant
Mr. Chun Feng, Architect
Mr. Robert Krahulik, Esq.

THE PLEDGE OF ALLEGIANCE

CHRIS NEALON – PRE-APPLICATION CONFERENCE

Represented by himself 754-7836

Owner/ Applicant Mr. Chris Nealon wishes to build a hunting cabin on property located on Route 209, Cuddebackville, N.Y.

It is an HMU Zone

Section – Block – Lot = 20-1-35

Applicant has spoken with the Building Inspectors' office.

Mr. Nealon said that he does not have a formal right-of-way with the adjoining property owner, and will be getting an easement, because his parcel is landlocked. He said that his neighbors' land has a cabin on it, and his parcel is vacant, and he just wants to build a small cabin.

Dave Dean said that he recollects in the Zoning Law that a landowner can put up a building which can be a maximum of 650 square feet, which would be considered seasonal, and an outhouse is allowed, as long as it's 500 feet away from a body of water.

Derek Wilson said that this is an existing landlocked lot, which, in his opinion, would be an interpretation for the building inspector.

Noel Malsberg read from the Zoning Law, page 15, Section 3.6 (2), "...Detached dwellings of less than 1,000 square feet in dwelling area, that do not serve as the principle permitted use, on a lot, or are used for seasonal purposes only, may be individually permitted as Special Uses."

The Board determined that this would be a special use permit, and Mr. Nealon would have to go through the site plan procedure, but not come back before this Board until he gets some written documentation of a formal right-of-way with his adjoining landowner.

The secretary handed an application to Mr. Nealon.

CHRISTINE MANN – PRE-APPLICATION CONFERENCE

Represented by herself 672-3647

Owner/ Applicant Christine Mann is seeking a subdivision of 7.51 acres located at 381 Oakland Valley Rd., Cuddebackville, NY

It is in the RR zone.

Section – Block – Lot = 20-1-79

Mr. Mann said that the Oakland Valley Campground is the next property, and are interested in buying her back five acres and attaching it to their property. She said that if the Campground buys her five acres, she will end up with a 2.51 acre lot, which would include her home.

The Board determined that this would have to be two applications, that is, Ms. Mann would have a subdivision application and the Campground would have a lot consolidation application, and they would be brought before the

Board at the same time.

Derek Wilson told Ms. Mann that the area is based on the soils, which means that she might require more than 2.51 acres to subdivide, and that she can get the soils computations from the Building Inspector.

The Board agreed that Ms. Mann should approach the Campground and work with them, concerning the two applications.

BOB SCHURR

Represented by himself 341-8361

Owner/ Mr. Hofstee

Applicant Bob Schurr wishes to create a used furniture and/ or an antique business at the old produce stand located next to the school complex on Route 209, Town of Deerpark, Orange County, N.Y.

It is an HMU Zone.

Application submitted May 27, 2009

The Board asked about bathroom facilities, and Mr. Schurr answered that the Self-Storage business across Route 209 would allow him to use theirs.

Mr. Plotsky and the Board agreed that that would not be an acceptable alternative, and told Mr. Schurr to either work out an agreement with Mr. Hofstee, whose barn, which is located behind this applicants' proposed building, could be used for bathroom facilities, or for Mr. Schurr to bring a port-o-john onto the property, and to bring a letter to the Board, stating that he will do one or the other.

Mr. Plotsky read from the Zoning Law, Section 7.3, page 75, that the Board "...has the right to waive, when reasonable, any of the procedural requirements of the article, for the approval, approval with modifications, or disapproval of special use permits and site plans, submitted for approval. Waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare, or are inappropriate to a particular site plan. Any such waiver shall be subject to certain conditions." He said that this application does not meet certain conditions, and the Board just needs to do SEQRA review, and make a motion.

MOTION

Derek Wilson made a motion to waive the public hearing on the Bob Schurr application, pursuant to the Deerpark Zoning Law, section 7.3, due to the fact that it was an existing use on the property. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Dean, aye; W. Wilson, aye. Motion carried.

The Board then made a review of the SEQRA, part I, and answered "no" to all questions.

MOTION

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

MOTION

Theresa Santiago made a motion for conditional approval based on the submission of a letter from Mr. Schurr that he will provide sanitary facilities on the same side of the road as the business, and payment of all fees. Dave Dean second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Dean, aye; W. Wilson, aye. Motion carried.

DRAGON SPRINGS BUDDHIST, INC.

Represented by Mr. Anthony Gioffre, Esq., Ms. Lana Han, Esq., and Mr. Chun Feng, Architect

Applicant wishes to apprise the Board about a change of the wood burning shed to be used for storage instead.

Mr. Gioffre said that he would just like to walk the Board through some proposed modifications to the approved site plan. He indicated on the site plan the area that will be discussed tonight. He said that Dragon Springs had been previously approved for two wood burning sheds, which are adjacent to the multi-purpose building, and the RN building. He said that both structures are 5,000 square foot structures, they were to be used to burn wood, to provide heat to the two buildings. He said that it has been determined that this is not an efficient use for on site, because it took too much manpower to gather the appropriate amount of wood to burn, and was determined to be an unfeasible use of the proposed structures. He said that at the same time, it was determined that the storage of costumes that are used in the performances by the practitioners, which are in the basement of the RN building, was not an ideal location, due to the humidity and mustiness of the storage of those costumes. He said that this will be a minor amendment to the site plan, and will be seeking a waiver of any further site plan review, by eliminating the two wood sheds. He said that the two wood burning sheds footprint was 10,000 square feet, and this new proposed building will be a footprint of 6,300 square feet and will be a two-story. He said that the proposed structure will be approximately 34 feet, 9 inches high. He said that the costume storage will basically take up one full story of this proposed structure, and the additional level will be for future costume storage. He said that there will be an open level on the bottom of the building, which will not count toward the square footag because it is not enclosed. He said that there will be no occupancy, no water, and no bathrooms, but merely electricity and heat. He said that they are also proposing solar panels.

Dan Loeb asked if the applicants are proposing to eliminate wood storage altogether?
Mr. Gioffre answered yes, and in replacement will be internal oil heat.

Mr. Fusco said that since it will be closer to the building, wood burning was not to be allowed. He said that it should be indicated on the final plan.

Dave Dean said that this new building will be three story, which is 6,300 square feet per story, which will be 18,900 square feet total, and the other two buildings were only 10,000 square feet.

Mr. Plotsky said that more copies of the site plan need to be submitted.

Mr. Plotsky stated that the Board needs to decide if this is a minor change to the site plan.

Mr. Fusco said that his firm had originally reviewed the first submission, which included two-stories, but now this new plan is three stories, and he needs to re-review this new plan and run it past the Building Inspector. He said that as far as the site plan goes, he himself, does not have an issue with it, but it does, he repeated, have to be looked at by the building code perspective.

Dave Dean expressed his opinion that in the past, these applicants have always stressed having the authenticity of the Teng dynasty architecture, and now this proposed building is a metal truss building with a metal roof?

Chun Feng answered that for symbolic reasons they follow the Teng architecture in their buildings for worship, but this being a functional building, it does not.

Mr. Plotsky expressed his opinion, that with all applicants a ten day submission is required before the meeting, and in order to achieve parity, amongst all applicants, nothing should be done with this proposal this evening, to give time for the Board members to look over this proposal, and it should be scheduled on the next meeting agenda.

The secretary was instructed to put this applicant on the July 8, 2009 agenda, and the applicant was instructed to submit additional maps within the next four days.

Chun Feng apologized for not getting the maps to the Board before this evening, and said that this is basically a building code difference, it's a lesser footprint, a lesser impervious area, and one building has been eliminated.

Mr. Gioffre said that this is not a formal site plan submission application, and they are before the Board this evening, because in the past the Building Inspector had asked them to go before the Planning Board anytime that he felt that a change was something that he did want to sign-off on right away. He said that if the Board feels that

this change is something that can be waived, then the Board can certainly do that.

Derek Wilson expressed his opinion that it is not unreasonable for the Board to place this proposal on their next agenda, since the Board did not have ten days prior to this meeting tonight, to look at the proposal.

Dan Loeb expressed his opinion that he voted for the last Dragon Springs change to their site plan, and now this evening is a project that is smaller in scope, but he said that this Board has made other applicants go through the site plan process, who had changes that were smaller than this proposal.

Mr. Gioffre said that he understands that the Board will entertain this proposal at their next meeting, and just by way of his request and an accommodation, given that there really is not a site plan issue as Mr. Fusco had indicated, it's really a building code review, and if Mr. Fusco determines that it is satisfactory to his concerns, he asked if his client could be excused from coming to the next meeting.

Mr. Plotsky answered that if the Board determines that further review is required, then a public hearing will be scheduled, and the applicants will have to appear again anyway. He said that if the Board decides that the change is minor, they will waive the public hearing, and then they will refer the proposal back to the Building Inspector for his review.

Mr. Fusco asked Mr. Gioffre for the building plans as soon as possible, so that he can review them.

For the record, Mr. Gioffre did agree that the Board can discuss this proposal at their next meeting, without the applicant being in attendance, if his client chooses not to attend.

DEERPARK VILLAGE – BRIEF DISCUSSION

Represented by Mr. Robert Krahulik, Esq.

Mr. Krahulik said that he would like to give a history of the litigation that has been surrounding the SEQRA review. He said that Deerpark Village has commenced litigation against the Deerpark Planning Board, for violating the SEQRA time limits and violating a previous court order, in regard to revealing and approving the Deerpark Village application. He said that his co-counsel Mr. Sachs, and Mr. Plotsky appeared in court in White Plains, New York on June 19, 2009, regarding this matter, and it's his understanding that the court suggested, rather than litigation over the Draft Final Environmental Impact Statement, that the applicant and the Planning Board should consider picking an independent consultant, to review the FEIS. He said that this was mutually agreed. He said that after the review was completed, the consultant would make binding recommendations to both parties, as to any proposed changes required in the FEIS, and thereafter, the Planning Board would accept the revised FEIS, and complete the SEQRA process. He said that the cost of the new consultant would be split evenly, between the Town and the applicant. He said that he and his client hopes that the Planning Board will respond favorably to the courts' suggestion, and that he will receive a response from this Board tonight. He said that he did receive a message from Mr. Sachs, talking about different mechanisms to fund the Towns' share, due to physical constraints that the Town is facing now. He said that Mr. Plotsky can review those alternative funding mechanisms.

Mr. Krahulik submitted a letter, dated June 24, 2009, as part of the record.

Mr. Plotsky said that he had suggested that the Board go into executive session, to discuss the litigation. He said that he has already made an opposition to that, and said that he will discuss it further in executive session.

Derek Wilson asked if the Board would still discuss a master list in open session after the executive session. Mr. Plotsky answered yes.

EXECUTIVE SESSION

Derek Wilson made a motion for the Board to go into executive session for discussion of pending litigation and invite the Town Attorney, Town Engineer, and Town Board Liaison.. Dan Loeb second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Dean, aye; W. Wilson, aye. Motion carried.

The Board went into executive session at 8:15 p.m.

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

The Board came out of executive session at 9:30 p.m.

DEERPARK VILLAGE- CONTINUED DISCUSSION

Mr. Plotsky left a copy of a letter from Fusco Engineering dated June 18, 2009, to the Board, which identifies the major topics that still have to be evaluated, and it then identifies the specific sections of the FEIS dealing with traffic.

Derek Wilson said that he also has the topics of wildlife, socia-economic, master plan, visual impacts of the retail, commercial area within the area, energy, such as gas and construction impacts, and a few addendums to Mr. Fuscos' letter. He gave these topics in writing to Mr. Fusco this evening.

Derek Wilson said that the pages in the FEIS need to be delineated, and asked the Town Engineer to mark them for the Board, ahead of time, so they can discuss them at the next meeting.

Al Fusco said that he will also contact the Town Highway Superintendent and get something in writing from him.

ADJOURNMENT

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

Meeting adjourned at 10:55 p.m.

Respectfully submitted,

Barbara Brollier, secretary