

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, August 13, 2008 at Deerpark Town Hall, Route 209, Huguenot, N.Y.

The following were present:

#### BOARD MEMBERS

Willard I. Wilson - Chairman                      Derek Wilson                      Gary Spears                      David Dean

#### OTHERS

Mr. Glen A. Plotsky, Town Attorney                      Mr. Al Fusco, Town Engineer  
Mr. John Fuller, P.E.                      Ms. Adelaida Lanzo, Applicant  
Mr. Syed Hasanne, Applicant                      Mr. Brian Babcock, P.E.  
Mr. Sam Han, Dragon Springs Buddhist, Inc.                      Mr. Jeff Clune, Applicant  
Mr. Yuexong Dong, Dragon Springs Buddhist, Inc.

#### THE PLEDGE OF ALLEGIANCE

#### ADELAIDA LANZO - PRE-APPLICATION CONFERENCE

Represented by herself and Mr. Syed Hasanne 281-935-3498

Owner/ Shirley Johnson

Applicant/ Adelaida Lanzo wishes to create a dispatching station for a taxi stand on Mrs. Johnsons' property located at 3 Canal Dr., Cuddebackville, N.Y.

It is an HMU Zone.                      Section - Block - Lot = 28 ? 1 ? 47.4

Mr. Hasanne said that both himself and Ms. Lanzo have been driving taxis for quite some time now and would like to open an independent taxi business. He said that the base would be in Mrs. Johnsons' home, who would act as an answering service to receive telephone calls and dispatch the taxis to patrons. He said that he would start out with one taxi, and it would not be parked at Canal Drive, but at another location in Deerpark. He said that no maintenance would be done on the premises. He said that all communication between the dispatcher and the taxi drivers would be from cell phone to cell phone, there will be no radio telephone communication tower erected. He said that there will be no sign placed on the premises for the taxi stand.

The Board determined that there would be no impact on any neighbors on Canal Drive and that this would basically be a home business, and advised the applicants to go to the Building Inspectors' Office during business hours and appraise Mr. Emerson of the conversation that was discussed here this evening.

The applicants thanked the Board

#### DEERPARK OIL - PRE-APPLICATION CONFERENCE

Represented by Jeff Clune and John Fuller, P.E.

Owner/ Applicant Deerpark Oil wishes to place propane tanks on property located off Darraugh Lane, Sparrowbush, N.Y.

It is an HMU Zone.                      Section - Block - Lot = 44 - 2 - 1.2

John Fuller said that he would treat this as an amendment to the current site plan, because Mr. Clune wishes to add three 30,000 gallon propane tanks to the property for storage purposes, where trucks would come in and fill up and then go out for local distribution. He said that Malzahn propane company will lease the tanks and be responsible for them.

Jeff Clune said that the propane tanks will be located at the back of the property off of Darraugh Lane,

as you enter the property it will be to the right, adjacent to the wetlands. He said that the propane is brought in by tractor trailer, just like the oil.

John Fuller said that the tanks will need a 50' setback from any other structure, and a 25' ignition setback all around that.

Jeff Clune said that a company out of Connecticut specializes in propane storage and he will have to send to this company the site plan and description of what he wants to do on the property, and that company will review the site plan and actually fine tune everything. He said that he believes that there is no involvement of the EPA and DEC because there is no spillage because there is no secondary containment, it's a gas. He said that the Fire Department will be involved however, because they need to be reported to, because they have to be able to handle an emergency on the premises. He said that they would be the most important outside agency on this project.

Jeff Clune said that nothing retail will be done on the premises.

Derek Wilson said that with propane storage, if a leak occurs, and with populated areas in the vicinity, there can be leakage into the Delaware River. He said that there will have to be detailed reports to this Board about how to mitigate, if there is a leak.

Al Fusco looked at the current site plan and asked Jeff Clune, what is the old water line?

Jeff Clune answered that it feeds from Mr. Patterson's house located off of Main Street, Sparrowbush, down to the Eddy Farm property, and said that it is still active. He said however, if anything happens to it over State Route 42/97, it will have to be abandoned.

David Dean said that it is an active spring from up on top of the mountain.

Jeff Clune said that he does not know where the old water line is on his property, however.

Al Fusco said that if there is water available on the property, it would be a good idea to set up a deluge line on the tanks, because they can heat up. He said that they absolutely must be properly secured. He said that that may be more State Building Code than Planning Code. He also said that the tanks should also be fenced, and that may be an issue with the neighboring wetlands.

David Dean gave his opinion that since an oil facility is already located on the premises, that this would be a good location for propane storage also.

Al Fusco said that he has information on propane storage and will share that with the Board.

Gary Spears asked about blacktop?

Jeff Clune answered that on the last site plan the Board had asked for blacktop and tar and chip, and he is actually concreting the parking lot right now, in 24' X 24' pads. He said that he is also starting to plant the pine tree line between the back of the property and the neighbors' property on the west side of Darraugh Lane, that is on their latest site plan.

SAFE STAY DAY CARE CENTER

Represented by John Fuller, P.E.

Owner/Applicant Susan Muzer wishes to build an additional building on property located at the intersection of Route 42/97 and Corso Rd., Sparrowbush, N. Y.

It is in the HMU Zone.

Section - Block - Lot : 44 - 4 - 23.1

Application received August 1, 2008

John Fuller said that this is a proposal to add a 16? addition to the existing building on the property. He referred to the proposed site plan that had been submitted, indicating the additions and changes to the floor plans and elevations that the Board had wanted at the pre-application meeting for this application a month and ½ ago.

John Fuller said, referring to the septic system, that the site plan approval conditions were actually taken from the original site plan approval and is treating this as an amended site plan, and the Daycare License # and the Department of Health # are listed in the general notes on the map. He said that on the approved site plan from 2001, the Board had asked for a demonstration that the design is for 100% expansion. He said that the septic was not actually built to 100% expansion, but was built for slightly greater than 400 gallons per day. He said that as part of that approval, a water meter was put on the well to determine the actual usage of water, and during the past 7 years, the usage has been well below that threshold. He said that a curtain drain is on the property to drain the water around, and also the Town Highway Department has been cleaning the ditches to help re-direct the water away from the structures.

John Fuller said that he is trying to mirror the same architecture as the existing building, which is brick. He said that a stucco is proposed, which will be mixed to a color to match the existing brick as best as possible.

John Fuller said that a commercial kitchen is not required by the State, so the owner is just proposing a kitchen for the staff's use in preparing their foods.

David Dean asked about the increase in students?

John Fuller answered that Ms. Muzer is only expecting a 3 to 5 increase in children at most, and is currently averaging 60 during the school season. He said that most days there is not the full 60 children on the premises, because people come in and out at all times during the day. He said that the approved hours are now 5:45 a.m. to 6:00 p.m.

Al Fusco referred to his technical comments, dated August 11, 2008. He said that based on NYS DEC standards, the applicant is over the requirement and they may need a SPDES permit. He asked for certified calculations from Mr. Fuller. He said that there's a one story building in a setback, but it is existing.

John Fuller said that over the next few weeks, he will monitor the meter to actually look at the usage, and provide that information to the Board. He said that the applicant is averaging well under the 400 gallons per day, and as to the SPDES permit, 1,000 gallons per day is actually the threshold. He said that the leaching field is designed for 450 gallons per day and is designed for 100% expansion.

GARY BUTLER SUBDIVISION ? DISCUSSION

Skip Wilson said that the applicant has all town engineering fees paid now, and the secretary may place him on the next agenda when he calls her.

HIGHLAND OPERATING LLC

Represented by Brian Babcock, P.E. 343-2511

Owner/ Applicant Vincent Biagini wishes a 10 lot subdivision on property located on Boehmler Rd., Sparrowbush, N.Y.

It is an RS Zone.

Section - Block - Lot = 24 - 2 - 50.11

Application submitted July 23, 2007

Applicant is seeking a 6 month extension of preliminary approval.

Skip Wilson said that the applicant has paid the delinquent engineering fees, according to the Town Supervisors' office. He said that the balance is now \$0, and before this applicant comes back before this Board, he will have to put \$2,500 in the town engineering escrow, and \$1,000 in the legal escrow.

Al Fusco referred to his technical review comments, dated August 11, 2008.

Brian Babcock asked if he could comment, even though he is not scheduled to come back before the Board until the August 27, 2008 meeting, because of the newest plans that he had submitted last week.

The Board agreed to hear Mr. Babcock.

Brian Babcock said that the applicant had received preliminary approval, and asked, referring to Mr. Fusco's comments, he's asking for the cul-de-sac diameter to be changed in the 60' wide right-of-way?

Al Fusco answered that the road that the applicant had proposed to put in is a hybrid between rural and suburban, that is, it doesn't fit either description.

Derek Wilson said that the difference between the two is the creation of sidewalks. He said that in the future, concerning this rural versus suburban, the Board should have a generic discussion with the Town Attorney, because the Regs define two types of roads, rural and suburban, and there are other applications before this Board, where they could be designated either rural or suburban.

Brian Babcock asked about the Town's Street Specifications?

The Board discussed that copies are available from the Town Clerk.

The secretary was instructed to get copies to all of the Board members.

Al Fusco said that he accepted the road plan, however, the detail by the engineer, of how it's going to be built, it cannot be built in 50', just by its own detail. He said that if Mr. Babcock wants to re-do that detail it would be fine. He said however, the detail shows that the 27', 28' on each side, brings it up to 56'.

Brian Babcock said that he will take a look at that detail.

Al Fusco said that the relationship with the cul-de-sac, that is, if the Board and the Fire Department is okay with a smaller one, than he himself is okay with that also. He said that however, most of his technical comments are minor, all will go toward the final approval.

Brian Babcock asked about comment #6, "the dry well 200' separation distance", he said that that was not an issue with the Health Department.

Al Fusco answered, that Mr. Babcock just needs to explain it, and get those comments back to the Board.

Skip Wilson referred to a letter, dated August 11, 2008, from the Health Department, which stated their approval.

Brian Babcock said that he actually did change the locations of some dry wells, because the Health

Department did have issues with them, with respect to the septic field.

Brian Babcock asked, if the street becomes an issue, with respect to hydrology, where the swell has to be a certain width, would the Town be willing to accept an easement through there?

Al Fusco answered that that is a possibility, and Mr. Babcock could present a draft.

#### MOTION

David Dean made a motion to grant a 6 month extension of the Highland Operating preliminary approval. Gary Spears second. Roll call vote: D. Wilson, aye; Spears, aye, W. Wilson, aye. Motion carried

Derek Wilson asked about the fencing of the retention areas?

Al Fusco answered yes, that is a discussion that this Board should have, not just for this application, but as a generic discussion pertaining to future applications. He gave his personal opinion that he recommends fences, for liability purposes.

The Board reviewed that the escrow accounts must be brought back up to the specified dollar amounts, before this applicant comes back before the Board.

#### DRAGON SPRINGS BUDDHIST INC. ? DISCUSSION

Represented by Mr. Sam Han & Yuexong Dong

Board to decide whether or not to renew Special Use Permit.

Skip Wilson handed out information to the Board members concerning town engineering fees still owed by this applicant. He said that he has discussed this with the Town Supervisor and they are trying to resolve this problem.

Derek Wilson expressed his opinion that if an applicant makes a complaint about their town engineering bills, then the Planning Board should go into executive session with the professional to get the straight facts and see if a solution can be worked out.

David Dean expressed his opinion that he believes that the Board is treading on dangerous ground here. He said that if the applicant disagrees with the fees, then they should work that out with somebody other than the Planning Board. He said that this Board is not responsible for what the town engineer bills to the applicant. He said that this Board does not have the authority to collect money.

Sam Han said that he does not reject to pay. He said that there is a dispute and they are working it out with Stantec Engineering on that. He said that it is not that difficult, because the reason they brought this to the Town Supervisor, was because Joe Henry billed them approximately 4 or 5 times at 7 hours each time. He said that they do not mean that they will reject to pay the bills, they will work it out with Stantec or the Town Supervisor or whoever. He said that regarding Fusco Engineering bills, that is easy, just to find out what is the item about, it's not difficult. He said that tonight they are here to show the Board their position. He said that this afternoon a letter written by their attorney was hand delivered.

Mr. Plotsky said with regard to the attorneys' letter, dated August 13, 2008, he is not prepared to issue any type of opinion or direction to the Board with regard to this letter. He said that he had already told Mr. Grauer, Esq., that as far as he is concerned, what this letter did was to buy another 2 to 3 weeks before a determination is made by this Board. He said that the Dragon Springs special use permit has already been extended to the end of September 2008.

The Board and Mr. Plotsky agreed that the fees concerning this applicant will not hold him up as to the renewal of their special use permit.

The secretary was instructed to put Dragon Springs Buddhist, Inc. on the September 10, 2008 agenda.

#### GENERIC DISCUSSION RE: ESCROW ACCOUNTS

Glen Plotsky said that whether it's a Dragon Springs problem, or some other applicants' problem, there are several applicants that have had issues. He said that what was done in the past, is that it is primarily a Town Supervisors' office issue, because they are the ones that keep track of the dollars put into the various town engineering and town legal escrows. He said that what has been happening is that basically he himself, has been running interference between the Town Supervisors' office and Stantec Engineering, and essentially putting it on Stantec's shoulders. He said that he essentially tells Stantec that they have to get these issues resolved. He said that to a certain degree it is not inappropriate for the Planning Board not to review something if there is not an escrow account in place. He said that if the dispute is over 'past work performed', and it's a question of the applicant moving forward before the Planning Board, yes, then the applicant must pay his past bills before coming back before this Board. He said that the Planning Board Chairman has to work with the Town Supervisors' office and then has to work directly with the applicants, whether it be a question of town engineering or town legal escrows. He said that the bottom line is that it is not fair for the Town to ask the Town Engineer and the Town Attorney to work for free. He said that also it's not fair to ask an applicant to pay two times for the same work done on his application, which would be double billing for the same work done. He also said that it's not fair for the Planning Board Chairman to get into the middle of a dispute either. He said that it's a new system, and everybody just needs to get used to it and work through it.

Gary Spears expressed his opinion that the solution would be for the Board to require big enough escrows, both Town Engineer and Town Attorney, up front, to handle the problems. He said that if there is a billing problem, it can be straightened out, because the money will be there. He said that if the applicants do not keep their escrow accounts up, then they do not appear before the Planning Board, until their escrows are back up to an appropriate level.

Mr. Plotsky said that one problem is for pre-application applicants, because they do not have escrow accounts set up. He said that for these, he just tracks the time that the applicants are before the Planning Board, and then just sends a bill. He said that a lot of these pre-apps do not come back before the Board ever again, thus they did not establish escrows, and that is an issue that his office will have to take up with the applicants themselves, it's not a Planning Board issue. He said that there are a few possibilities where this can be reconciled, and his office will just have to work through that.

David Dean expressed his opinion that the Planning Board should establish a 'trigger', whether it is a percentage or a set amount of funds, so that the Board will know when an applicant comes before them, they will know that the applicants' escrow is low, and the applicant will have to get it back up before coming back before this Board..

#### ADJOURNMENT

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

Motion carried.

Meeting adjourned at 8:25 p.m.

Respectfully submitted,

Barbara Brollier, Secretary