

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, April 16, 2009 at 7:30 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y.

The following were present:

MEMBER

Martin Smith, Chairman
Gerald Cedrone

Jane Lord
Frank Bigger

OTHERS

Mr. Glen Plotsky, Town Attorney
Mr. Thundarr Blackstar, Applicant

THUNDARR BLACKSTAR – PUBLIC HEARING

Represented by himself

Owner/ Applicant Mr. Blackstar is requesting a use variance to create a storage facility on property located at the intersection of Wilson Road and NYS Route 42, Sparrowbush, N.Y.

It is an RR Zone.

Section – Block – Lot = 33 – 1 – 10.1

Applicant was denied by the Building Inspector and Referred by the Planning Board.

Application submitted March 9, 2009

SEE ATTACHED PUBLIC HEARING BELOW

Mr. Plotsky said that the Board has 62 days to make a decision.

The Board decided to put this applicant on the next meeting agenda, which would be May 21, 2009.

ADJOURNMENT

Frank Bigger made a motion to adjourn. Jane Lord second. Roll call vote: Cedrone, aye; Lord, aye; Bigger, aye, Smith, aye. Motion carried.

Meeting adjourned at 8:25 p.m.

Respectfully submitted,

.....Public hearing.....

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MEMBERS

Martin Smith, Chairman
Gerald Cedrone

Jane Lord
Frank Bigger

OTHERS

Mr. Glen Plotsky, Town Attorney
Mr. Edwin Wilson, Resident
Mr. Thundarr Blackstar, Applicant

Mr. Christopher Rearou, Adjoiner
Mrs. Janet Bright, Adjoiner
Mrs. Joan Applegate, Adjoiner
Mrs. Kathy Legato, Adjoiner
Mrs. Mona Wilson, Resident

The secretary read the public hearing notice: "Notice is hereby given of a public hearing to be held by the Town of Deerpark, Orange County, New York, pursuant to Article 9 of the Town of Deerpark Zoning Law on the application of Thundarr Blackstar for a use variance to create a storage facility. The application effects the following premises: Record Owner: Thundarr Blackstar; Tax Map Designation: Section 33; Block 1, Lot 10.1; Zone Designation RR; . Located at the intersection of Wilson Rd., & State Route #42, Sparrowbush, Town of Deerpark, Orange County, New York. Information on this application is on file with the Town Clerk, Town Hall, Route 209, Huguenot, New York. The Hearing shall take place at 7:30 o'clock P.M. on the 16th day of April, 2009, at Deerpark Town Hall, located on Route 209 Town of Deerpark, Orange County, New York, or as soon thereafter as practicable. All parties wishing to be heard shall be heard at that time."

Martin Smith: Okay, a letter has been submitted, and I would like to read it into the record. "I am unable to attend the hearing of Thundarr Blackstar April 16th, regarding his application for a use variance to create a storage facility on the premises Section 33, Block 1, Lot 10.1, at the intersection of Wilson Road and State Route 42, Sparrowbush. My questions with regards to this variance are: 1. Will there be periodic inspections of contents in the building and if so, by whom? 2. How will inspections be done and at whose expense? My concern is that stored contents in this building be monitored for illegal, volatile or dangerous items. It is an RR zone. 3. Will the building be made fire proof, for example, sprinkler system, and will it have security, as no one will be occupying the building? 4. Will storage be limited to the building, for example, no trailer type containers as there is now. 5. Will the property be kept aesthetically? It has not up to now, it is an eyesore. This property is surrounded by RR properties and according to the Master Plan for Deerpark, this kind of operation is not permitted in the RR area. I hope this will be taken into consideration. Thank you for your kind attention. Sincerely yours, Doris Aversa." Okay, it's time for Mr. Blackstar to present his case. And this is a use variance, so the criteria is a little different from an area variance.

Thundarr Blackstar: Hello, my name is Thudarr Blackstar, and could you please tell me who I will be addressing this evening?

Martin Smith: You mean you want our names?

Thundarr Blackstar: Yes, please.

Gerald Cedrone: My name is Gerald Cedrone.

Unknown: Is the mic hooked up?

Frank Bigger: Would you turn that mic on there? Talk into the microphone.

Martin Smith: Okay, my name is Dennis Smith.

Jane Lord: Jane Lord.

Frank Bigger: Frank Bigger.

Jane Lord: I'm called Dr. Lord, if you want. In fact, I think it would be polite if you referred to us as Mr. or Dr., as our title.

Thundarr Blackstar: Okay, thank you. I thank you for hearing my case, and I thank everyone for coming this evening. I thank everybody for coming today. I've never done this before, and I'll address any and all concerns that you may have. I'm applying for storage. And what I have is ten trailers, four vans and three trucks. And I basically become a warehouse on wheels. I put a lot of things in my trailers, and I'm trying to create a home for my business that I've created. I have the business in Matamoros there, right across the bridge, the next block, and my business is actually a lot bigger than my present storage, and it's come to a point where it needs a home, and that's why I'm here today.

Frank Bigger: You know the points that you have to bring out to us, it was on your application?

Thundarr Blackstar: The points?

Martin Smith: You have four items that you need to address, and tell us why we should grant you this variance. Do you want me to read them to you? The first one is, that you cannot realize a reasonable return, substantial as shown by competent financial evidence.

Thundarr Blackstar: Okay, I remember that. Yes, the uses that are allowed are like, restaurants, which is the number one business that fails in America. I would be afraid to put in a restaurant. Then another business allowed is a sawmill, which, ...there's one sawmill up the road already, and I haven't seen a lot of business there. And another is a bait and tackle shop, which, I couldn't possibly do that, I couldn't make any money with that.

Martin Smith: This is zoned Rural Residential, which means you can build a house there. Now, you have to show us, why financially you cannot build a house there, why it's not suitable for a house. In dollars and cents, why you can't make a house work there.

Thundarr Blackstar: Well, the building itself was designed for commercial, it was always used for commercial. It doesn't have, what you would call, the foundation that your regular house has underneath it. It has a foundation for more of a seasonal residence. Between that and the lead paint that is in the building, I wouldn't want to turn it into a home, for those reasons. It would be ideal to use for storage, and I just wouldn't want to turn the building into a single family home. Also, you couldn't get a mortgage on it, because it doesn't have the proper foundation under it.

Martin Smith: Well, that's not what they're asking for, they're asking for financial evidence.

Thundarr Blackstar: Once again, it would take a lot of money to make it into a house. Even if you tore it down, and put a new home there, you're talking about a lot of money that I just don't have, I don't have that kind of money.

Gerald Cedrone: I think at the last meeting I mentioned to you that you would have to go through all of these items, and be prepared to answer each one of them.

Thundarr Blackstar: Yes, I was aware of it, but I just didn't have them here in front of me now. I mean, I can go through it now with you now.

Frank Bigger: I think before we go any further, you're going to have to specify to us, which of the three are you applying for, for the variance. Is it the storage, or a store, or an auction?

Thundarr Blackstar: No, it's just for storage, that's all. That's all I'm applying for.

Frank Bigger: The building and the trailers?

Thundarr Blackstar: Well, that would be part of the storage, the equipment as well. I need a home for all of my equipment, I've acquired quite a bit of equipment for my business. And I'm looking to store my things inside the building, and use the outside for my equipment. That would solve my problem of a warehouse on wheels.

Jane Lord: Did you know that this was Rural Residential when you bought it? I mean, there certainly is commercial areas all through here, and also in Pennsylvania that would accommodate the trailer issue.

Thundarr Blackstar: I buy other properties as well, and I just acquired this property at a tax sale.

Jane Lord: And then you flip them?

Thundarr Blackstar: No, not necessarily. I have 5 or 6 properties, and only have sold one. You know, to buy something in real estate to flip is not the easiest thing to do. It's not all it's cracked up to be.

Frank Bigger: Now, one of your properties is in Greenville?

Thundarr Blackstar: Yes.

Frank Bigger: How many acres do you have there?

Thundarr Blackstar: $\frac{3}{4}$ of an acre, it's not even an acre.

Martin Smith: Let's take another one of these points here, we're taking them a little out of order, but... "The requested variance will not alter the essential character of the neighborhood." In other words, we want to know, how parking trailers on this property, will not alter the character of the Rural Residential neighborhood. If you could justify that for us somehow.

Thundarr Blackstar: I'm going to fence the property in, and make it a legitimate storage facility. I would hold it up to the standards that any other storage facility would have to be held up to, the standards. And whatever buffers or trees it would need and whatever it takes to make it viable, so that it would be aesthetic to the community.

Martin Smith: You don't think that would alter the character of the neighborhood, to put in a business, a storage business in the middle of a Rural Residential neighborhood?

Thundarr Blackstar: Well, it's on a major highway, and for me to do that, it wouldn't be any more traffic going by. It would be a quiet business, for the most part. I would just come and go to put stuff in and take it out basically. I don't think that it would alter it that much.

Jane Lord: Let me ask you this. In relation to where you are, there are several homes. If you lived in those homes, and you were to look out your window, and see a storage trailer across the highway, you don't think that that would alter your concept of the neighborhood? Or to see tractor trailers coming in?

Thundarr Blackstar: I don't have the ability to bring in tractor trailers, I don't have that kind of licensing, I'm not that big. I'm just at the point where I have a lot of stuff, and a lot of trailers, and I need a place.

Martin Smith: If you can tell us, why the alleged hardship is not self-created. In other words, did you know that this was a rural residential neighborhood when you bought the place?

Thundarr Blackstar: No, I did not check that when I bought it, to be honest with you.

Jane Lord: And if you had, what would've happened if you had checked that?

Thundarr Blackstar: I probably would've still bought it. I like the parcel, I think it's a good property, I like it. I think that the hardship is, being a commercial property all of its' life, I'm just trying to alter the use of the commercial, I'm just trying to use it to suit my needs.

Martin Smith: The only point we haven't covered so far, is #2. "Unless the hardship is unique, it does not apply to a substantial portion of the district or neighborhood." In other words, it's a small portion of that neighborhood. Why wouldn't it stick out like a sore thumb?

Thundarr Blackstar: It's one acre of land, and like I said, it was designed in a commercial way. And to me, it wouldn't be feasible to create a single family home. It would be more suitable for my kind of need.

Martin Smith: Does anybody else have anything more? You still need to do is, that you need a dollars and cents accounting, of what it would cost to make that into a residence, and then compare that with tearing down the building and making a residence there. You need to show us how that's not feasible, in dollars and cents.

Thundarr Blackstar: Well, if you didn't tear it down, then you'd have to do something about the lead and put a real foundation underneath it. Because right now, it's a shell. You'd have to do everything that is possible, to make it into a single family home, just about. And all the things that would be in a single family home are not there, none of them are there. Anything you'd do to fix that building up, to make it into a single family home, would cost a lot of money, and we're talking the minimum of \$100,000, in whatever direction you would go. And that would be a small sized home, not a \$200,000 or \$300,000 home.

Frank Bigger: If you do get the variance, would you hold any auctions up there?

Thundarr Blackstar: No. Right now I'm looking for storage. If I wanted to do something else, I'd have to come back before you, for that.

Jane Lord: When you say storage, what you really mean is storage and a parking lot.

Thundarr Blackstar: Well, a warehouse. I call it a storage facility, but in reality, it's more like a warehouse. Where I would store my equipment and my things.

Martin Smith: What general category of things are we talking about? For instance, machinery, housewares, furniture, appliances, what type of things?

Thundarr Blackstar: Household items, furniture, tools, things that I would sell in my store, that type of stuff.

Jane Lord: Now you could, obviously, use the inside of the home, to use for storage for whatever you have, and what would you do, if you couldn't park the trucks there?

Thundarr Blackstar: Well, I guess I'd have to park them someplace else.

Jane Lord: In other words, you would get use out of the property, I mean, if you were able to store those

things inside the building, so that no one would see them. It would basically look like the building looks right now.

Thundarr Blackstar: Well, I would fix it up. I want to vinyl side it, I want to make it look nice, and put trees up, Right now you can put a 6' fence up in the Rural Residential, I mean, I could do that.

Jane Lord: It's 5' on the front, and 6' on the side, I think, isn't it?

Thundarr Blackstar: Well, I mean, I could even put in a higher fence, of course, with the permission of the Town.

Gerald Cedrone: How many trailers are you considering storing there?

Thundarr Blackstar: I have 8 trailers, that I would like to store there, and they all are similar to the one that I have out here, in the parking lot here. Well, I say 6 of them, that is, 5 more are like the one that's out there, and I have one dump trailer and one flat bed trailer as well. You're talking about 15 pieces of equipment.

Martin Smith: Are they licensed?

Thundarr Blackstar: Some of them are licensed, not all of them, but some of them are.

Martin Smith: Are there any other questions? I guess we don't have any other questions for you. Is there anything else you want to say?

Thundarr Blackstar: I want to fix the building up and make it look nice outside. I want to put some trees in, and put a fence in, so people don't have to see everything from the road. I'm going to do whatever it takes to make everybody as happy as possible.

Martin Smith: Okay, thank you.

Secretary: Excuse me, Mr. Blackstar, could we have the certified mailings?

Thundarr Blackstar: Yes, absolutely.

Martin Smith: Does anyone from the public wish to make any comments on this application? Mr. Wilson? Please come up and state your name.

Edwin Wilson: I'm Edwin Wilson at 193 Wilson Road, a long time resident of the area. And I represent a group of more than 25 people and would like to read to you why we think Mr. Blackstar should be denied this use variance that he has requested, located at the intersection of NYS 42 and Wilson Road, to operate a auction hall, variety store or storage facility. The ZBA should not grant this use variance for the following reasons. The property can presently be used for different uses that can provide a reasonable return. The first use is converting the existing building into a single family residence for rent or re-sale, or a demolition and then construction of a single family home. This use would require no further review other than an issuance of a building permit. Other allowed uses under this special use provision is listed in the zoning for the Rural Residential Zone are animal hospitals, bait and tackle shops, bed and breakfasts, motels, nursery schools and social halls. Each of these uses would be allowed with site plan and special use permit review. The special use permit procedure gives the Planning Board the authority to carefully review and mitigate any negative impacts on surrounding properties when uses such as these are proposed. Any hardship Mr. Blackstar may site, is entirely self-

created, in that he recently purchased the property in a tax sale, and was responsible to investigate any zoning restrictions that applied to it, before he purchased it. Any investment he has made in the repair of the building, was made in the knowledge that the zoning of the property doesn't allow this proposed use for it. Three, granting of the use variance would substantially alter the character of the neighborhood, because all of the surrounding properties are of residential use. The property had previously been allowed to operate as a bar and as a restaurant/motel in the rural residential zone under grandfathering provisions in the zoning. Since it was last operated commercially about 15 years ago, the motel was demolished, due to its' dilapidated condition, and the existing building fell into disrepair. Since it ceased use as a bar and restaurant, many large and expensive houses have been constructed on adjoining properties and in close proximity, re-inforcing the residential use of the area. The property has lost its ability to operate as a bar and a restaurant, because it ceased operating as such, a long time ago. A concern about the possible granting of the use variance is that, if it is granted, what would be the restrictions on expansion? Mr. Blackstar appears to be a hardworking individual, and it is reasonable to assume that he would expand the existing building even further, impacting the surrounding residential properties. It is likely based on presentations that Mr. Blackstar has made to both the Planning Board and the Zoning Board of Appeals, what he wishes to do on the property. That he would more than likely be keeping materials in different type of trailers and storage containers on the property. A use variance is granted to the property, not to the owner of the property. The ZBA needs to be knowledgeable that once it has granted the property, it can be re-sold, and another individual would be allowed to operate it, not necessarily in the same way that Mr. Blackstar proposes, as long as the new owner complies with any wording in the variance. The ZBA needs to deny this application because it does not meet the minimum requirements for the granting of a use variance under New York State Law. And the proposed use would also likely become a detriment to the value of the surrounding properties. The ZBA should encourage Mr. Blackstar to find another property within the Town that allows the use that he is proposing, such as within the Hamlet Mixed Use District, the Interchange Business District or the Industrial District. Mr. Blackstar should decide on and pursue a use for this property that is allowed under the zoning, or put it up for re-sale to someone who wishes to do so. These comments have been made on behalf of the following neighboring property owners." Now that's property owners, not renters. And I have 25 signatures, attesting to this, and I have a copy for each member of the Board. And this property has not always been commercial. It was originally Detricks Farm, within my lifetime. And after that it was Corinie's Farm, and after that it was a school for disadvantaged people.

Martin Smith: Okay, thank you. Is there anyone else that would like to make a comment. Okay. Please state your name.

Christopher Rearou: My name is Christopher Rearou, I live on Wilson Road, and I'm also a participant in the petition that you were just given. I am opposed to the variance and would just like to state why. I ask you to seriously consider the impact that it would have on existing homes. The zoning has been established to protect the interests of the properties that are already there, and I seriously ask you to consider opposing this variance. Thank you.

Martin Smith: Okay, thank you. Is there anybody else?

Janet Bright: Good evening, my name is Janet Bright, and I also live on Wilson Road. I did not sign, but my husband did. I just have a question for the Board. I don't know the size of the lot, but should the variance be granted, is there a zoning law on how many trailers, tractor trailers, whatever it is, that can be parked on a certain size space in the Town of Deerpark? Not to compare it to horses, but you have to have so many acres for horses, that kind of thing. I was just curious, because it kind of came up when he was talking about all of the trailers that he's going to have. I don't see it as a very big lot.

Thundarr Blackstar: It's one acre.

Janet Bright: I was curious, because I don't know if there is such a law.

Frank Bigger: We would have to defer that to our attorney.

Glen Plotsky: I don't know, I would have to research that. I don't know that there's a specific restriction.

Martin Smith: I'm not sure exactly what kind of trailers these are.

Janet Bright: And I was going to ask him that, do you say that they're not semi-tractor trailers, that they're smaller?

Thundarr Blackstar: Five of them are like a race car trailer, where you drive a race car into it.

Martin Smith: And enclosed van type trailer.

Thundarr Blackstar: Well, I don't think you could get a van into one of these trailers.

Martin Smith: I mean, it's an enclosed box.

Thundarr Blackstar: Yes, it is, that it is.

Martin Smith: And you pull it behind a pick up truck.

Thundarr Blackstar: Right, right. Five of them are race car trailers, and one of them is 8' high, rather than 6' high. I had one specially made, and the rest of them are 6' high. Then I have a flat bed trailer and a dump trailer.

Janet Bright: I just didn't know if there was any kind of zoning law, restricting the number of trailers.

Martin Smith: For that type of trailer, I don't know for sure, but I don't think so. I mean, if you had two antique cars, and you have them in there, and they're parked in your yard, I don't think that there's anything that would restrict you from doing that. That's something we'll have to look into. Okay, anybody else?

Joan Applegate: My name is Joan Applegate, I live on Route 42, almost directly across from Wilson Road. Every house in that area, every house within my sight line is wonderfully maintained, very nice properties, and I don't see anyway...if you put a fence up even. There's not anyway that you can move storage in and not detract from the neighborhood.

Martin Smith: Okay, anybody else? Yes, come on up.

Kathy Legato: Hi, my name is Kathy Legato, and I live at #11 Wilson Road, and my property borders the property of Mr. Blackstar. I and my family are opposed to this. We've bordered that property for awhile, and we looked into purchasing that piece of property, and we were told by our Building Inspector that for what we would pay for it, which we were not quoted a price at that time, what it was being sold for, that would cost triple to knock it down, because the building was condemned. I know that Mr. Blackstar has been there, putting a roof on, and whatever, but on a condemned property, which we were told verbally, I don't know how that was allowed to be done. But he has fixed it up somewhat. So, my property line borders right with his, all the way. He was there yesterday cutting down trees and whatever, trying to do whatever, there's heaps of stuff there, and I know they haven't had time to keep that under control. But

I am opposed to that, my husband and I, we are opposed to that. We just built a new home there, we've always lived in this area all of our lives, and I don't see...it is zoned Rural Residential, and I would like to see a home go in there, because that would be fantastic. And I don't want to see my home depreciate. I think that with the area home that are there, that have been there, there are cute little homes, which are very well maintained, and this, I think, is just going to deteriorate our value. And that's basically what I have to say. I have a letter here now, does one of the Board members read this. It's from my son, he's not here, he's away.

Jane Lord: You can read it, you're on tape.

Martin Smith: If you could just give us copies, do you have copies?

Kathy Legato: Yes, I do. "To the Town of Deerpark Zoning Board of Appeals, Route 209, Deerpark, New York. Application of Thundarr Blackstar, Section 33, Block 1, Lot 10.1 To Whom It May Concern: Please let it be known that we re strongly opposed to the use of the above mentioned property located t the intersection of Wilson Road and State Route 42, Sparrowbush for anything other than a residential home. The formal hearing is scheduled for Thursday, April 16th, and we are not able to attend as we will be out of town. Please accept his letter as our formal objection to the approval of a variance for that property. Use of the above mentioned property in this manner will disrupt our quiet, residential neighborhood. We have no way of knowing what is being stored at the property or in the trailers that are to be parked on the property as speculated by the owner. These items could be harmful or a fire hazard. as stated above, we oppose the approval of the variance and the use of the property for anything but a residential home. Best regards, Jeffery and Danielle Legato, #12 Wilson Road., Sparrowbush, N.Y." Thank you.

Martin Smith: Okay, would you give that to the secretary.

Gerald Cedrone: I have a question, you said you live right next door.

Kathy Legato: Yes, I am, we have the property to the corner and we border that property.

Gerald Cedrone: I'm just curious where you got his list of adjoiningers from.

Thundarr Blackstar: From the Assessor, and she made the list of people more than 200' from my property line. Are you on the list, did you get a certified letter?

Kathy Legato: Yes, I did. I'm on it, I can't be any closer if I lived there.

Martin Smith: This adjoiningers list, usually it's on a form and it's printed out, that's why I was curious. Let's see, anybody else? Okay.

Thundarr Blackstar: May I speak again?

Martin Smith: Yes, you may speak again.

Thundarr Blackstar: I was listening to these people, and one of their concerns was that I might sell the place to somebody else. I would be willing to use it just for myself, contingent I wouldn't sell it to anyone else, and can do something in writing. I just need it for myself, and I'm not interested in selling it to anyone else, for them to use it for whatever they want to do. And I don't think I'll tear it down, because I talked to the Building Inspector and he gave me a permit, and he asked for an engineers' report, and I got it, and there's an engineers' report on the property.

Martin Smith: You got a permit to do the roof?

Thundarr Blackstar: Yes. And the engineer inspected it and he inspected it, and it's deemed where it's not at the point where it needs to be torn down, but rather it can be fixed up. That's why he gave me a permit.

Jane Lord: Have you thought about making the garage large enough for all of the trailers? I'm not sure you can, but they would all be hidden.

Thundarr Blackstar: Would that require a variance as well?

Martin Smith: Well, you're going to run into...since it's Rural Residential, you're going to run into setbacks and stuff, and you've only got an acre.

Thundarr Blackstar: I think there's a limit to the amount that you can build without a variance, it's 12' by 26' or something like that, I don't know the exact measurements, but it's not large.

Martin Smith: So, you would have the various setbacks and stuff.

Thundarr Blackstar: And if anybody else has questions, I'd be glad to answer them.

Martin Smith: Does anybody else have any questions, from the Board? Okay, a motion to close the public hearing?

Frank Bigger: I make a motion to close the public hearing.

Jane Lord: Second.

Martin Smith: Okay, we have a second, all in favor?

Mona Wilson: Excuse me, may I ask a question? Do the members of the Board make a visual inspection of whatever it is they decided on?

Martin Smith: Yes, we ought to, or we drive by it enough, so that we know what it looks like. Yes, we usually do. Okay, a vote. Jerry?

Gerald Cedrone: Aye.

Jane Lord: Aye.

Frank Bigger: Aye.

Martin Smith: Aye.

Motion carried.

Public hearing closed at 8:15 p.m.

Respectfully submitted,
Barbara Broilier, Secretary