

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, April 19, 2007 at 7:30 p.m. at Deerpark Town Hall, Route 209, Huguenot, N.Y.

The following were present:

#### ZBA MEMBERS

Martin D. Smith, Jr.-Chairman      Karl Brabenec      Gerald Cedrone  
Jane Lord      Frank Bigger

#### OTHERS

Mr. Glen A. Plotsky, Town Attorney  
Mr. Mark House, Town Supervisor  
Mr. Liam O'Neill, Town Board Liaison  
Mr. Robert Zeller, Applicant  
Mr. Jason Brown, Applicant

#### APPROVAL OF MINUTES

Karl Brabenec made a motion to approve the minutes from the March 15, 2007 meeting. Jane Lord second. Roll call vote: Brabenec, aye Cedrone, aye; Lord, aye; Smith, aye, Bigger, aye. Motion carried.

#### ROBERT & JANICE ZELLER - INITIAL MEETING

Represented by Robert Zeller

Owners/ Applicants Robert & Janice Zeller are seeking an area variance for a lot line adjustment on property located at 395 Neversink Dr., Port Jervis, N.Y.

It is an RR Zone.

Section - Block - Lot = 53 - 1 - 18

Application received April 2, 2007

Applicants were referred by the Planning Board.

The Board went over the application with Mr. Zeller. They asked that the following lines be submitted before the next meeting.

-First Page of Application:

#2 - "Soil Classification and Area"

#3 - "Provision(s) of the /Town of Deerpark Zoning Law from which applicant appeals. (State Article, Section and Paragraph of pertinent Ordinance/Law)."

-Short Environmental Assessment Form (SEAF):

#8 - "Will proposed action comply with existing zoning or other existing land use restrictions?"

Mr. Zeller was asked to answer question #8 as "no."

#10 - "Does action involve a permit approval, or funding, now or ultimately from any other governmental agency (Federal, State or Local)?"

Mr. Zeller was asked to answer question #10 as "yes."

Karl Brabenec made a motion to schedule a public hearing for the Zeller application for Thursday, May 24, 2007 at 7:30 p.m. Jane Lord second. Roll call vote: Brabenec, aye Cedrone, aye; Lord, aye; Smith, aye, Bigger, aye. Motion carried.

The secretary said that she would get the public hearing notice to Mr. Zeller.

#### JASON & DONNA BROWN - PUBLIC HEARING

Represented by themselves

Owners/ Applicants Jason & Donna Brown are seeking a variance to attached a 14' X 65' mobile home to their bungalow on property located at 1108 Route 209, Cuddebackville, N.Y.

It is an HMU Zone.

Section - Block - Lot = 21 - 2 - 11

Application received March 5, 2007.

## SEE ATTACHED PUBLIC HEARING RECORD

The Board discussed this application later on in the meeting.

### DRAGON SPRINGS BUDDHIST, INC. - DISCUSSION

Represented by Mr. Chun Feng, Architect 754-7400

Owner/ Applicant Dragon Springs Buddhist, Inc. a seeking a height variance for their already approved multi-purpose building, on property located on Galley Hill Rd., Cuddebackville, N.Y.

It is an RR Zone.

Section - Block - Lot = 31 - 1 - 21.22

Application received February 2, 2007.

Public hearing was held on March 15, 2007.

Jane Lord expressed that her concern was highlighted at the last meeting by Mr. Conan O'Brennen, the Assistant Cuddebackville Fire Chief. She said that he think that he may have realized that coming to a small town with a limited fire department, and that they would not be able to handle a fire the way it needs to be taken care of, and it really would be a difficulty. She said that she is scared to death of fire, and particularly now that we are experiencing global warming, we're apt to see more of it. She said that the applicant is talking about hosting 200 people who are not from town and will not know where to go, and may not where to run into the woods or to get away from a fire. She said that this is a big question mark in her mind, that remains unsolved. She said that the Cuddebackville Fire Department talked about the fact that between Mondays and Fridays, because they all work, they are always short staffed, which means that there will be a further delay in getting fire equipment up there. She said that she really would hope that the applicant would consider a small scale fire department up on their land, that would have the appropriate equipment that could be used quickly, and that that would make her feel more comfortable to vote yes on this application.

At this point a member of the audience attempted to speak.

Martin Smith said that the public participate part of the public hearing is over, there is just talk among the Board members tonight.

Jane Lord said that also when the ZBA discusses variances, the applicants talk about hardship, and frankly, she said that she finds it difficult to consider this a major hardship getting scenery protected and stage equipment up and down. She said that high schools have equipment, and that there are all kinds of stages in New York City that don't require the kind of space that this applicant is talking about. She said that it may not be exactly what the applicant may like, but she said that she has been to many places that have very adequate scenery, and she said that she has a real problem with calling this a hardship.

Martin Smith said that concerning an area variance, the ZBA is supposed to balance the benefit of the applicant with the detriment to the health, safety and welfare of the community.

Jane Lord answered that if there were a fire up there, every fire department in the whole area would try to put that out, and that would be a detriment to the health, safety and welfare of the community. She said that the Towns' Fire Departments are just not big enough to service it.

Martin Smith said that the way that he sees it, is that he walked the applicants' site, and looked the buildings over, and estimated the height of the multi-purpose building. He said that the building is already there, it's approved,

and any environmental impacts should've already been taken care of. He said that what this Board is looking at is the increased height of about 1/4 of the building. He said that he stood back and looked at it, and held the plans up where he could project them, to see where they came on the trees and other scenery. He said that he does not believe that the additional height can be seen by any of the neighbors, and doesn't believe that that additional height can be a detriment to the health, safety and welfare of the community, and it would be a benefit to the applicant, the way that the stage will work.

Karl Brabenec said that he also took a site walk, and said that he doesn't see any problem approving this, especially as far as height is concerned. He asked, does this go back to the Planning Board for further review?

Martin Smith answered yes.

Karl Brabenec continued to say that then, any concern regarding fire or anything else, would be brought up at the Planning Board level. He said that in addition, there's a big tower already built on the property, that this Board approved a variance for, and he can see a potential conflict in not approving this application, because it had already approved the tower.

Jane Lord said that first of all, that tower was not supposed to be seen above the tree line, and it is now quite a bit above the tree line. She said that second of all, there are no people in the tower, because it's supposed to be completely vacant, and only monitored sporadically by maintenance personnel, and it's a different kind of use; whereas, the multi-purpose building will house several hundred people, therefore, it's a very different type of situation if there were a fire. She said that she did not vote for the tower either, because it's made out of wood and is a fire issue.

Gerald Cedrone said that when this multi-purpose building was approved by the Planning Board, why did the applicant not have this already on their plans, and now they're coming back before this Board asking for a variance. He asked, didn't they know what they were doing?

Jane Lord said that this has been a problem all along, that is, the applicants get a building approved, and then they come back to lengthen it or raise the height on it, and it seems to be a continuing planning problem on the applicants side.

## MOTION

Frank Bigger made a motion to approve the height variance for the Dragon Springs application. Karl Brabenec second.

Discussion: Martin Smith said that he'd either like to make a suggestion to the Planning Board, or put it in the motion, that the venting of the higher structure be automatic, to lessen the problems, if anybody has to go onto the roof or whatnot, that an automatic venting system of some sort, be incorporated into the plans.

Glen Plotsky said that information was provided by the applicants at the public hearing relative to fire prevention issues, that is, the 20,000 gallon holding tank, the venting, the pump system that brings the water up to the top of the building, so nobody has to go up there. He asked Chairman Smith is this is what he is proposing?

Martin Smith answered yes, that all of the applicants' proposals should be incorporated into the plan. He said that the letter that was handed out this evening by the applicants' attorney, covered the issues of the fire alarms, sprinkler systems, the ability to re-fill the sprinkler system from the troughs, etc. should all be incorporated into the motion.

Jane Lord said that the proposals should all be to the satisfaction of the Towns' local fire departments also.

Glen Plotsky said that the motion would now need to be amended.

Frank Bigger made a motion to amend the motion, conditioned upon the inclusion of the various representations made by the applicant during their presentation relative to fire prevention; and to also require additional approval by the various fire departments that would potentially have to respond to a fire at the scene. Karl Brabenec second.

Roll call vote: Brabenec, aye;

Cedrone, no; Smith, aye; Lord, no; Bigger, aye. Motion carried.

#### JASON & DONNA BROWN - CONTINUED DISCUSSION

Martin Smith said that he doesn't know if the Building Inspector considers this as an addition to the house, and therefore, he said that the Board needs more clarification from the Building Inspector.

Gerald Cedrone said that in speaking with the Building Inspector, the age of the trailer has no bearing at all, because it is an addition to the house.

Mr. Plotsky said that this application was referred to the ZBA by the Building Department, but the application is not clear as to what exactly the variance is. He said that the one interpretation that the age of the trailer is not relevant, or has no bearing, would be because if a trailer is not permitted, then it doesn't matter how old it is. On the other hand, he said, it also would have no bearing if he's not treating it as a trailer, and there is an issue that it's an addition that perhaps impacts on front lot size, or side lot size and the applicant made specific reference to the distances to the side lots and things like that. He said that he certainly is not clear as to what aspect of the construction or use,... is what was objectionable to the Building Inspector. He said that it is very appropriate for the Board to defer their deliberation until they know what the issue is.

Mr. Plotsky and several Board members stated that there is no letter in the file from the Building Inspector indicating what his referral was for.

#### MOTION

Gerald Cedrone made a motion that the secretary write a letter to the Building Inspector asking for clarification about the Brown variance application by way of a written letter or attendance at the next ZBA meeting.. Jane Lord second. Roll call vote: Brabenec, aye; Cedrone, aye; Smith, aye; Lord, aye; Bigger, aye. Motion carried.

#### COMMUNICATION FROM THE CHAIR

Karl Brabenec made a motion that the May meeting be held on the fourth Thursday of May, that is, May 24, 2007, at 7:30 p.m., instead of the regular third Thursday of the month. Jane Lord second. Roll call vote: Brabenec, aye; Cedrone, aye; Smith, aye; Lord, aye; Bigger, aye. Motion carried.

#### ADJOURNMENT

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

Respectfully submitted,

Barbara Brollier, Secretary