

DEERPARK ZONING BOARD OF APPEALS - FEBRUARY 21, 2013 - PG. #
PUBLIC HEARING CONTINUED - ROCK CITY MEDIA

The Deerpark Zoning Board of Appeals met for a continuation of a public hearing on Thursday, February 21, 2013 at 7:30 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

ZONING BOARD OF APPEALS MEMBERS

Gerald Cedrone -Chairman Martin D. Smith, Jr. Jim Harrington Jane Lord

OTHERS

Mr. Glen A. Plotsky, Town Attorney Mr. Doug Barthel, Representative for Rock City Media
Mrs. Mervi Stack, Applicant

The secretary read the public hearing notice: "Notice is hereby given of a continuation of a Public Hearing to be held by the Zoning Board of Appeals of the Town of Deerpark, Orange County, New York, pursuant to Article 9 of the Town of Deerpark Zoning Law on the application of Rock City Media to erect pole signs. The application effects the following premises: Record Owner: Mervi Stack; Tax Map Designation: Section 57, Block 3, Lots 3.1 & 4.2; Zone Designation: IB. Located at 83-85 South Maple Ave., 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 15th day of November, 2012 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."

Gerald Cedrone: Any questions? I guess on the agenda is Mr. Barthel.

Mr. Barthel presented the proof of mailings to the secretary.

Glen Plotsky: It was because of the delay, that we did the re-notice and the publication, it was like three months basically. So, rather than risking having the hearing, and then somebody saying that they didn't know about it, we did re-notice this for tonight's hearing.

Doug Barthel: Last time we were here, I said that I would get some information to the Board members, I would like to hand out these papers here, this is a sign that we already have. and this is a packet of information about digital signs. I didn't know how many hand-outs to bring here. Basically, I also re-did the plans to lower the height to 35 feet, because last time I was here, it was at 60 feet and I was concerned with the height, so I had it re-done, and I can pass this out too, if you want.

Jim Harrington: It's exactly at 35 feet? Plus or minus?

Doug Barthel: Yes. 35 feet to the top edge, which will have less of an impact. The typical code is 35', there are a few towns where it's 60 feet, but 35 feet it is, and it'll conform with that. The packet is nice, because it goes into the type of board. And that was discussed last time, there's no glare to it, it adjusts with the ambient light. The brighter out it is, the dimmer it becomes, so you don't even know that you're looking at the digital. And it also would link into the amber alert, which has been a lot in the news lately. With the officer that they hunted out in California, the information was all out on digital billboards. And you don't want that to happen around here but if something happens, you want to get that information out quickly. And another thing that I could tie into the town, and I would offer, and I've offered it to the town of Wallkill, is that when the space is not sold, I would promote the Town. So, people driving down I-84 will see the billboard about your town, and come and visit it, from up off the interstate. The other thing that goes into the regulations, so you know that there's no flashing, is that there can't be intermittent lighting they can't use animation video, they have to adjust, and this manufacturer, like I said, is cutting edge, it's one of the best. So, it's really something that, it wouldn't look like Vegas, it would look very nice. Are there any questions?

Martin Smith: The image is like this?

Doug Barthel: No, they're static, it looks just like a vinyl, just what we would use today.

Jim Harrington: Would there be multiple images on the same Board?

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Glen Plotsky: It would be there for a minute or thirty seconds, and then there's another one.

Doug Barthel: Exactly, it runs in cycles. You don't even notice the rotation, it's in a blink. It's a new ad. And in the State of New York, I think it's eight cycles, eight advertisers. And the duration is a variable. I mean you can have one ad up for one minute, the next one up for one minute. In the industry, it varies from 11 seconds to a minute.

Glen Plotsky: Are you committing that one of the advertisements would be for the Town of Deerpark. Not only the amber alert, but also the other?

Doug Barthel: Yes. What I would do is, commit one of the cycles, if unsold, to Deerpark. And if any of them were unsold, it would be Deerpark.

Jane Lord: And if they all are sold, we wouldn't get it?

Doug Barthel: We'll work something out, I'm sure. I wouldn't want to promote the Town, it's the same with Wallkill. It's also the same cycle that we're going to use to break in for amber alert, depending upon what type of amber alert it is. I mean, if it's something where they're trying to hunt someone down in the next 20 minutes, it's not going to cycle, it's just going to be the amber alert, it's just going to stay static. With promoting the Town, I would say, yeah, there would be a definite slot in there. So, the logistics of working it out, and how often that that would cycle through, I'd be happy to work that out.

Martin Smith: Would there be a charge for this?

Doug Barthel: No.

Martin Smith: No charge for amber alert either?

Doug Barthel: No.

Jane Lord: How high is this sign?

Doug Barthel: It's going to be 35 feet.

Jane Lord: And is this... it's going to be flat on the ground? I mean, your sign over there, is way beneath the...

Doug Barthel: It is, one of them is, yeah.

Jane Lord: So, is this the same way.

Doug Barthel: This sign is below grade, it's not as far below grade. It's probably about ten feet below grade.

Jane Lord: So 35 feet, like on here, would be closer to the road?

Doug Barthel: The same distance from the edge of the highway. Actually further on the interstate there, because I think the right-of-way here is 50 feet, and I think the right-of-way there is 25 or 30 feet, so it's a little further from the edge of the road.

Glen Plotsky: Just so I'm clear then, if it's being set below grade, the effective height, you'd have 25 feet?

Doug Barthel: Yes, because I believe the grade there is at least 10 feet down, so it'd be about 25 feet high. But I think the interstate is a little further right-of-way than (Interstate) 17, but not drastically, ten feet.

Jim Harrington: Is it one pole?

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Doug Barthel: Yes. Actually it wouldn't have been green either, like in the photo. It would be black. In the photo the pole is green, but it would be black. I like that color, because it seems to disappear more, so you only really see the ad. I find green a little glaring.

Jim Harrington: What's the overall dimensions of the sign again?

Doug Barthel: 14 by 48. It's pretty standard for interstate, because everybody's going 70. If you put something smaller, they don't see it.

Jim Harrington: It might slow them down, for them to want to read it.

Doug Barthel: If you could, good luck.

Jane Lord: If they're going that fast, how can they see the flip-over?

Doug Barthel: You won't notice it.

Glen Plotsky: You'll only see whatever cycles are there, as you drive by.

Doug Barthel: Right.

Glen Plotsky: Having just been driving recently, they have signs like this, all the way down (Interstate) 95. On any given day if you drive 7 days a week, you can literally see seven different signs, depending upon where its' placed. Obviously if there's an accident or something like that, you would see more cycles. But with traffic moving normally, of course, you'll only see one. But it all depends upon the speed of the flow of traffic. Is that what you're saying?

Doug Barthel: Oh yes, absolutely.

Glen Plotsky: Okay, Mr. Barthel, I have to ask you some questions? Are there other billboards in the vicinity?

Doug Barthel: In New York?

Glen Plotsky: Or in the immediate vicinity?

Doug Barthel: Yes, right across the bridge. Probably about one mile or a half of mile, farther into Pennsylvania, there's a few billboards, but they are higher than what I am looking to build, they are approximately 60 or 70 feet high. But they are the exact same size of the sign face, it's 14 by 48.

Jim Harrington: Can you not see signs from New Jersey and Pennsylvania?

Doug Barthel? Pennsylvania you do.

Jim Harrington: Yeah, that's what I thought. I drove by there and the Pennsylvania signs are way down low.

Doug Barthel: Yeah, but they're much further below grade.

Jim Harrington: Yeah, that's what I said, they're much lower.

Doug Barthel: I think that's partly why they went so much higher with then. I mean when you're on the highway, they're still quite high over there.

Glen Plotsky: I understand that there are no billboards in the vicinity, would there be a change in the character of the neighborhood?

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Doug Barthel: I mean if you consider the Pa. strip, as part of the landscape or topography of the community, I don't think there'd be any change. This property is fairly unique, where the signs are going, it's almost like a pocket where they are. They're not up on a ridge line, or they're not out in a big meadow, they're on a commercial property, on a small spot, right before the exit for the town, which is perfect to draw business and commuters, travelers into the town.

Jane Lord: Except there are like ten other signs that the businesses are getting ready to turn off, and you run into highway signs, quite a few starting at the edge of the river, right through to the exit.

Doug Barthel: Oh, the DOT signs, or the small ones?

Jane Lord: Yes, "get ready to pull over", the "exit is in 1/4 of a mile" and things of that sort.

Doug Barthel: Right, but what this would do, is direct it to... I mean when you promote the Town, it would be something historic, I assume, with some reason to stop. You know, whatever the Town would want to promote. For local businesses, it would be the restaurants and whatever. "Get off here", "eat at whatever", and you know, pull them in, get them into the area. There's a lot to see around here, I think it would be a great tourism tool for the area. Being that they're the same size in Pennsylvania, I don't think it would be any different than what's in the area. Wawayanda, I've got a couple of signs there, and I've got some in Port Jervis on Route 6, but that's the closest.

Glen Plotsky: Have you looked into other uses of this property, so the applicant can realize a return on her investment? In other words, you're going to be leasing the property, right?

Doug Barthel: Yeah.

Glen Plotsky: So, to the extent that you are leasing that little piece, is there something else that can be done with this property that would give you a return on your investment?

Doug Barthel: I don't know if I can answer that.

Jim Harrington: Do you have any other intended use for the rest of the property?

Doug Barthel: A restaurant I guess, are you opening that back up?

Mervi Stack: The property is, I mean it's a big property, we're talking about ten acres in the back. So, as far as the building that I have over there now, I am thinking about opening up the restaurant over there. So, that would be next to it, and then there's the two rental properties. And that's all there is right now.

Glen Plotsky: Is this the property that's adjacent to the South of the Border?

Mervi Stack: Yes.

Glen Plotsky: Is there a structure on this property?

Mervi Stack: Yes.

Glen Plotsky: What is that structure?

Mervi Stack: That one is empty right now.

Glen Plotsky: So, this is on the corner here?

Mervi Stack: Yes.

Glen Plotsky: So, it's exactly the same parcel.

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Mervi Stack: One of these signs is going to go on that parcel, and than the other two would be in the back of it, those are the two rental properties.

Jim Harrington: Well, there's only one sign.

Doug Barthel: I think at the last meeting, I brought the site plan with the poles, this would be the pole as you come in, there would be two of them, and then another one would be about 500 feet away and another one 1,500 feet away. That was what we were going for, originally in the variance,

Glen Plotsky: That's why you got two lots designated on your application.

Doug Barthel: I believe the second lot has nothing on it, or does it?

Mervi Stack: It has the two rental properties.

Glen Plotsky: The poles are going to be 35 feet high, and are they within 35 feet of any other structures?

Doug Barthel: I don't think, I mean, I can find that out.

Glen Plotsky: Okay, let me put it to you this way. You're going to have to figure out a way to put the poles more than 35 feet from any structure.

Doug Barthel: Okay, that might alter the site plan, but that is fine. I think it may.

Glen Plotsky: Now the current Deerpark Zoning allows for a 30 foot height, and you're asking for 35. Is that 35, would you say that that's as low as you can go, to still make the signs visible from the highway?

Doug Barthel: I would say the first one would need the 35, the second one could be 30. It really doesn't require the 35.

Glen Plotsky: You really can't see the signs, if they're not 35? Right?

Doug Barthel: Yeah, I would need that, yeah,

Jim Harrington: We need to know that, because we need to know exactly what you're talking about.

Martin Smith: We're talking about three structures here?

Doug Barthel: Yes. Three poles.

Glen Plotsky: Ultimately, he's going to ask for permission for three signs, and they're all going to be 35 feet high, all in the same zone, with two lots that currently either have a rental residential use, or a proposed restaurant use. Your job as the zoning board, is to determine whether or not to grant a use variance to allow this type of sign on those parcels. And whether to grant an area variance, to allow for the five additional feet, which is over what the current zoning permits. There's two different variances that he's asking for. It will be up to the planning board to determine to allow him where the signs actually can go. The planning board will ultimately sau how many, where, and also they will determine whether or not the 14 by 48 would be an appropriate sign, because the planning board has that authority.

Jim Harrington: So, we're looking at use and height? Right?

Glen Plotsky: You're looking at use, any billboard type structure, and can it be five feet more than the zoning law allows?

Martin Smith: What's the current zoning here?

Glen Plosky: Current zoning is that there's no off-site billboards, and as far as the height, there's a 30 foot height.

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It's in the IB zone, the industrial zone. And my understanding is that, if and when the new zoning is enacted, it will become a permitted use with planning board approval. The town board has proposed to essentially remove the special uses from the IB zone. There is currently a sign ordinance. But again, the type of sign, what it will look like, and all of those issues, those are all planning board issues.

Jane Lord: Yeah, but whether it can be there or not, is ours.

Glen Plotsky: Right now it can't be, unless you grant a variance.

Jane Lord: The sign ordinance is page 57.

Martin Smith: Is it still going to be two digital, and one steady?

Doug Barthel: Yes. It wouldn't be two digitals in a row. It would be one going into Pennsylvania, one coming into New York, and the other would just be a static or vinyl face.

Martin Smith: So, you'd be able to see the sign from either direction?

Doug Barthel: No, they'd be on the pole like this. So, if you'd be coming down I-84 you'd see one going into Milford, and you'd see the other coming into the Port Jervis area.

Jane Lord: It's one of the prohibited signs in the industrial area.

Doug Barthel: Which one?

Jane Lord: Right now. "Signs extending above the top of the end or the end of exterior walls by any means, free standing signs over ten feet in height from grade level, portable sign structures, signs resembling traffic signals or official traffic signs, signs unrelated to permitted uses on a property," ... in other words, you're not advertising for what's on the property. "... signs not specifically allowed or permitted in this district, flashing and oscillating signs and signs with spotlights directed away from the sign, revolving or moving signs, and signs extending over public right-of-ways." That's just this much.

Gerald Cedrone: This is a draft of a change.

Jane Lord: We're looking at size here, for free standing signs, one square foot for two feet of lot frontage, or 100 square feet for both sides, combined for all signs, whichever is less.

Doug Barthel: It's a complicated issue.

Gerald Cedrone: Anyone have any further questions? Just as a point of information. A month or two ago, the town went over changes to the zoning laws, and the town board hasn't accepted them yet, but if they accept them, your problems go away. If the town board approves the changes, you can come back here in a month, when they've been approved.

Jim Harrington: Did you know this?

Doug Barthel: I didn't know that it would be a month, I knew they're working on the code.

Gerald Cedrone: I don't know that it'll be a month, for sure.

Doug Barthel: Yeah, it could be five months or something. I was thinking, just to move things forward, it would be the best to just go before you, and I would ultimately wind up in front of the planning board anyway.

Glen Plotsky: Do you have anything else here, that you'd like to add Mr. Barthel?

Doug Barthel: No.

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Glen Plotsky: Do members of the board have any questions? Or perhaps you should open it to the public?

Gerald Cedrone: I don't have any questions, and it doesn't look like there's anyone here to ask any questions. I would expect we should just close the public hearing. Can I have a motion?

Martin Smith: I make a motion to close the public hearing.

Jane Lord: I second.

Gerald Cedrone: Okay, all in favor?

Jim Harrington: Aye.

Martin Smith: Aye.

Jane Lord: Aye.

Gerald Cedrone: Aye.

Motion carried.

Public hearing closed at 8:05 p.m.

Respectfully submitted,

Barbara Brollier, secretary