

DEERPARK PLANNING BOARD - FEBRUARY 9, 2011 - PAGE # 1

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, February 9, 2011 at 7:00 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

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|-------------------------------|----------------|----------|
| Derek Wilson, Acting Chairman | Willard Schadt | Dan Loeb |
| Mike Breitenfeld | Alan Schock | |

OTHERS

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| Mr. Glen Plotsky, Town Attorney | Mr. Alfred A. Fusco, Jr., Town Engineer |
| Mr. John Furst, Esq., Cingular | Mr. John Fuller, Civil Engineer |
| Mr. Damian Brady, Esq./ Deerpark Village | |

THE PLEDGE OF ALLEGIANCE

CINGULAR WIRELESS CELL TOWER - PUBLIC HEARING

Represented by Daniel Laub, Cuddy & Feder, LLP 845-896-2229
Owner/ Burnett Enterprises, Inc.
Applicant/ New Cingular Wireless PCS (AT&T) wishes to erect a
125' cell tower on property located at 19 Route 211, Cuddebackville, N.Y.
It is an HMU Zone Section – Block – Lot = 22 – 1 – 90
Application received September 30, 2010

SEE ATTACHED PUBLIC HEARING RECORD

The public hearing was held open for written comments, to be continued at the February 23, 2011 meeting.

Derek Wilson repeated that each Board member did get a copy of the two letters that were submitted, concerning this application.

Mr. Plotsky said for the record, that in checking the proof of mailings, they were correct, and there was actually two sets of mailings, one for the January 26, 2011 meeting, which had been canceled due to a snowstorm, and the second mailing for the meeting this evening. He said that there was a January 21, 2011 written report from Mr. Fusco, which will also be included in the file.

The Board and Mr. Fusco agreed that he would go over his January 21, 2011 comments at the next meeting.

Mr. Furst asked about the timing of the reply comments from Orange County Planning?

Mr. Fusco answered that the referrals were hand delivered to the County on January 20, 2011. He said that he did hear back from NYSDOT, who stated that they see no impact.

QUALITY BUS COMPANY - PRE-APPLICATION CONFERENCE

Represented by John Fuller, Civil Engineer 856-1536
Owner/ Applicant D. L. E. HOLDINGS LLC is seeking a site plan approval
for vehicle & equipment sales, on property located on Main St., Sparrowbush, NY
It is an HMU zone. Section – Block – Lot = 43 – 2 – 2

Mr. Fuller said that the property in question is on Main Street, just down from Route 42, and it was formerly the Scully

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Restaurant, which had a motel set up, along with the restaurant. He said that Quality Bus Company did purchase the property, and then demolished the existing structures, through a demo permit obtained from the Town Building Department. He said that they then moved school buses onto the property. He said that it is a gravel surface. He said that the proposal is to provide a building on the property, to run an office out of that, for the purpose of vehicle and equipment sales. He said that the property is fenced in, and the original well and septic were kept, they were not destroyed during the demolition. He said that the septic demands will not be large, because it will probably only be a small office.

Derek Wilson asked about the school buses that were housed at the Eckes Auto Body Shop located on Route 42, are they now down at this location?

John Fuller said that he does not know the answer to that. He said that the intention for this property, is that the school buses stored on this parcel will be sold, thus, the title "Vehicle and Equipment Sales".

Derek Wilson asked, the buses that they are now using for transporting students are on the old Carroll property?

John Fuller answered yes.

Derek Wilson asked, will the property be connected by a strip along the back of the properties?

John Fuller answered no.

Derek Wilson asked, where will the school buses be refurbished and repaired for sale?

John Fuller answered, probably on the old Carroll property where the school buses for transporting students now, is located. He said that there will probably be some overlapping of the two properties, because of the nature of the two businesses, but for purpose of this site plan, the separation will have to be differentiated. He said that they are the same ownership. He said that the purpose of putting a small building on this lot is to provide a principle structure, in order to be compliant with the Town Zoning Law, because just a parking lot is not allowed.

Mr. Plotsky asked, is this any way different, from where a citizen has their principle use on one parcel across the street from their garage? He then answered that as long as he's been this Boards' advisor, the Board does not approve that, because you cannot have an accessory structure for an accessory use, without a principle structure.

David Dean asked to speak. He said that that ordinance was changed. He said that the argument was made that if a person owns, for example, 100 acres 2 miles from his house, and it's an agricultural use, or something of that nature, and that citizen needs his equipment or tools, or something like that type, in order to facilitate the use of the 100 acres, why shouldn't he be able to have an outbuilding or a barn or a garage, in order to store the equipment necessary to use on that land. He said that it now allows for someone to have an accessory use on the land, without a structure there,.

Derek Wilson asked, were they separate, or is it just that the road bisected the two properties?

David Dean answered no, they are separate. He said that it makes sense for a person to put up a building on the 100 acre parcel, so he doesn't have to drive his tractor back and forth between that parcel and his smaller piece of property which may be 2 or 10 miles down the road.

Mr. Plotsky said that he stands corrected and will look into it.

Derek Wilson asked, from this point of view, does this proposed property touch the old Carroll property?

John Fuller answered by pointing to the map and explaining that they do not touch, as the barber shop is completely between the two properties. He said that the long term goal is to establish an office on the proposed piece that may possibly have garage bays attached. He said that now, a temporary smaller building will be put on the property, which can be demolished and then a larger building can be put in later.

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Derek Wilson expressed his concern that this Board may be approving something that may never get built.

Al Fusco said that one of the things that the Board also has to look at, is parking area and this and that, landscaping, fencing, etc. He said that ultimately if the applicant is trying to get around not having the parking accessory to a structure, and just have the parking, it would probably have to go before the ZBA for a variance for this independent parking area.

John Fuller said that this proposed structure on this sketch plan tonight, would be compliant with the Zoning Law. He said that if the possibility exists to link the two properties, and to eliminate a building, then his client would consider this. He said that he does not want to remove that possibility off of the table. He said that the vehicle and equipment sales use is different from the Quality school bus use, so if they did become linked in the future, there would be two uses. He said that he would have to be advised as to how to address that.

Mr. Plotsky asked if they do become linked, is the other property conforming, as to setbacks, impervious surface, etc?

John Fuller answered that the issue with the old Carroll property is that it is an existing building, and has been existing, but this is really a use issue, it's not an improvement issue. He said that the question would then be, is the use compliant?

Mr. Plotsky said that if you are talking about linking the two properties, then he respectfully disagreed with Mr. Fuller.

John Fuller said that if this application goes forward with a building being put onto this parcel, what should it look like?

Derek Wilson answered that it would need to blend in with the local architectural standard, or a little bit better.

Al Fusco answered that screening will also have to be done.

Derek Wilson asked about escrow accounts for this application, and Al Fusco said that it would be \$1,200 for town engineering escrow, and Glen Plotsky said \$750 for town attorney escrow.

VINCENT GALLIGAN SUBDIVISION - PRE-APPLICATION CONFERENCE

Represented by John Fuller

Owner/ Applicant Vincent Galligan wishes a 2 lot subdivision on property located at 227 Oakland Valley Road, Cuddebackville, N.Y.

It is in the RR Zone.

Section - Block - Lot = 20-1- 64.14

John Fuller indicated on the site plan the placement of the lot on old Oakland Valley Road and showed the irregular shaped parcel. He indicated where there is a 50 foot right-of-way, which will access the proposed flag lot, a proposed 4 acre lot, which is permitted in the RR zone. He said that the second parcel will be larger, (becoming approximately 12 acres), than the flag lot. He said that the whole parcel now is 16 acres. He indicated a trail on the parcel which meanders down to the back part of the property, and overlooks the Neversink River. He said that the soils are good, and the lot area setbacks and driveway grades conform to the Zoning Law. He said that the two existing driveways onto the parcel have existing driveway cuts, but will need Orange County DPW driveway permits.

Derek Wilson asked about escrow accounts for this application, and Al Fusco said that it would be \$1,200 for town engineering escrow, and Glen Plotsky said \$500 for town attorney escrow.

NANCY GIBSON - PRE-APPLICATION CONFERENCE

Represented by John Fuller

Owner/ Applicant Nancy Gibson is seeking a 2 lot subdivision on property located at 200 Peenpack Trail, Huguenot, N.Y.

It is an RR zone.

Section- Block- Lot = 37- 1 - 14.1

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John Fuller said that this is a 90 acre piece located at the entrance of Martin Road on Peenpack Trail, and the owner wishes to create a 2 lot subdivision, where 13 plus acres would be for her dwelling, and the balance would be a separate parcel to create an animal sanctuary, which would consist of dogs, and smaller farm animals. He said that the larger lot does have a gravel entrance off of Peenpack Trail, and in order to access the back portion of the property, she would have to cross the brook that cuts across Peenpack Trail. He said that in lieu of crossing that brook, that is, building a bridge, she would like an access easement through the smaller parcel, to access the larger parcel. He said that the applicant would come in on the driveway that would be shared, and then it would break off the access to the larger piece, and then she would have a driveway and a house built on the 13 acres. He said that the Columbia Gas pipeline cuts through the property. He said that his understanding of the regulations is that an easement can be placed over the gas line. He also said that if his client desired larger or more exotic animals, of course, that would be another application before this Board.

Willard Schadt expressed his concern about the driveway and the Columbia gas pipeline, and asked Mr. Fuller if he could extend the lot line back a little bit, so that the subdivision could sort of follow the driveway.

John Fuller said that it could, but it might have a conflict with the zoning regulations, as the front of the property his client wants an easement, which would create a shared driveway. He said that off of the existing driveway it might be possible to create a housing lot, and he would have to re-configure.

Derek Wilson expressed his concern that right now the applicant owns both pieces, but what if in the future, one of the lots was sold and that buyer wanted to subdivide, then it becomes a problem with the shared driveway. He said that once the applicant develops the larger lot, she should consider a bridge over the brook.

Dave Dean asked about a large stone foundation on the property?

Al Schock answered that that was an old hotel many years back.

Derek Wilson asked about escrow accounts for this application, and Al Fusco said that it would be \$1,200 for town engineering escrow, and Glen Plotsky said \$500 for town attorney escrow.

TRIPLET LLC

Represented by John Fuller, Civil Engineer 856-1536
Owner/ Rowley Development Corp.

Applicant/ Arthur Trovei is seeking a special use permit to operate a vehicle/ equipment sales yard at property located at 161 Route 6, Town of Deerpark, Orange County, N.Y.

It is an HMU Zone.

Section – Block – Lot = 57 – 1 – 96

Application received November 12, 2010

John Fuller said that after the public hearing on this application last month, there was a site walk made by the town engineer, the applicant and himself, to address the comments that were raised by the public hearing, and this new revised plan does address those issues. He said that on January 27, 2011 a letter was received by the NYSDOT, stating that all of their issues are addressed, and they have no problem with this application.

Al Fusco had handed out a technical memo for this application, dated January 21, 2011. It read:

Comments:

1. We have had conference calls with the NYSDOT representatives, and they have approved the use of the 2 existing access and egresses onto NYS Route 6.
2. We had an on-site investigation and reviewed the previous lumber yard site plan, on which the drainage had been addressed and there are to be no changes in the drainage, no additional impervious surfaces, and no additional construction. We feel the existing drainage pattern is acceptable at this time.

We had requested that material sheets of fluid storage on site be given to the Building Department.

The fluid storage was identified on the new plan and noted that the applicant was to register with the NYSDEC for all storage on site.

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Spill kits were to be available in each building and noted as requested by this office.

The inspection revealed an adequate security system. In fact, Deerpark Town Police responded when a false alarm went off due to our inspection.

Board Comments.

Willard Schadt asked, pertaining to # 3 above, what is “material sheets of fluid storage?”

Al Fusco answered that is referring to types and a listing of all of the materials that the applicant is going to store on site, i.e. “10W40”, anti-freeze, etc. He said that the fire department needs to look at the list for pre-planning, what is stored there, if there's any cleaning fluids, etc.

Al Fusco said that he had a conference with Kim Henkins with NYSDOT, and she had some suggestions, which Mr. Fuller has incorporated onto the new plans, and NYSDOT just wanted it limited to the two accesses and egresses, which Mr. Fuller still has to apply for. He said that concerning drainage, it does not appear to go onto the adjoining site, the lady who lives on Lime Kiln Road who had spoken at the public hearing. He said that the applicant has already registered with the Town Building Department, and will register with the NYSDEC all of the storage on site. He said that the Board still has to address SEQRA.

John Fuller said that in speaking with the landowner on Lime Kiln Road, she said that he could not see the materials that were piled 6 feet high on the property.

Willard Schadt said that dripping oil on the parking lots is his concern, and its' effect on groundwater.

Al Fusco answered that any repair work done, that is changing fluids, will not be done outside. He said that outside, there will always be leaking fluids from storing vehicles, and a small leak does not come under and NYSDEC regulations. He said however, if a sizeable spill should occur, then the NYSDEC has to be notified immediately. He said that the NYSDEC does conduct annual inspections, and also the Town Building Inspector can periodically go onto the property and check for spills.

The Board reviewed the SEQRA Part I form, and answered “no” to all questions.

MOTION

Mike Breitenfeld made a motion for negative declaration. Al Schock second. Roll call vote: Loeb, no; Schock, aye; Breitenfeld, aye; Schadt, no; D. Wilson, aye. Motion carried.

Since the vote was not a majority, the Board declared a “non-action” and the subject will be discussed and voted on again at the next meeting.

DEERPARK VILLAGE - DISCUSSION

Represented by Mr. Damian Brady, Esq.

Owner/ Applicant Deerpark Village Associates wishes to create Planned Residential Housing Units on property located on Wilson Road, Sparrowbush, N.Y.

It is a Planned Rural Residential Development (PRRD) Zone.

Section – Block – Lots = 23 – 2 – 32.2 & 38.8

At this point, Derek Wilson recused himself from speaking on this application and turned the Chair over to Willard Schadt.

Willard Schadt asked Mr. Plotsky to go over his memorandum, and said that all of the issues have been resolved, except for two or three items.

Mr. Plotsky concurred with Mr. Schadt and said that after the January 12, 2011 meeting, a summary memorandum was

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distributed to the Board members, dated January 26, 2011, based upon an agreement reached by the applicants' attorney and engineer, and the Planning Boards' attorney and engineer. He said that the Planning Board had requested some modifications of the proposed verbiage at the January 12, 2011 meeting. He said that as a result, the four professionals met and tried to hash out the discrepancies. He then went over his summary memorandum:

Paragraph #1 – No change.

Paragraph #2 – This paragraph has to do with what was discussed about the lesser alternatives requested. He said that ultimately Mr. Fusco and himself are proposing that the statement read: “A 900 unit alternative representing approximately a 40% reduction from the basic plan, as initially presented in the EIS, are presented in the FEIS.”

Paragraph #3 – No change.

Paragraph #4 – Initially the four consultants had suggested that a numerical standard be used, that is, 200 units. He said that the Planning Board had requested that it be after the first phase of development. He said that he and Mr. Fusco suggested combining the two to say... “After the first phase of development, but not before the development of the 200 units.” He said that he doesn't know how many units will be in that first phase of development. He said that if the applicants proposes, for example, 60 units in that first phase of development, then that will not be enough to study. He said that all of the consultants agree that 200 is the number at which a meaningful review can be made.

Paragraph #5 – No change.

Paragraph #6 – No change.

Paragraph #7 – This paragraph has to do with the commercial business. He said that the Planning Board had indicated that they want the commercial to be internally, within the project, and the applicant is concerned about that assertion. He said that the concern of the Planning Board, as the applicants' consultants understand it, is primarily having to do with, in terms of its' location, the visual impacts. He said that Mr. Fusco and himself suggested, providing for that internal requirement and suggestion, that the applicants' consultants have agreed, and they say that no signs with external illumination will be permitted (only internal illumination), no flashing signs and no neon signs. He said that the only entrance to the retail area, will be from the Deerpark Village road, and there will be no additional curb cuts into Wilson Road. He said that the retail building will be set no less than 100 feet from Wilson Road, and the applicant will preserve not less than 40 feet of natural vegetation of Wilson Road and the retail area, including the parking area. He said that the applicant had proposed that they were willing to remove the retail aspect of the proposal in its' entirety, if the Planning Board agreed to permit an additional number of 150 units (which would be on top of the 900 units).

Paragraph #8 – No change.

Paragraph #9 – No change.

Paragraph #10 – Improvements of Wilson Road. He said that Mr. Fusco and himself had suggested to add additional language... “After additional discussions between the attorneys and engineers consultants for the Town and the applicant, it was agreed that during each construction phase, the developer must address all damages to Wilson Road, during that construction stage. The applicant will be responsible for the repair of all damages caused by the development of the project. In addition, the Planning Board should encourage the formation of a Highway Improvement District by the Deerpark Town Board for Wilson Road, in accordance with the provisions of New York State Law. In this manner Deerpark Village property owners will, through the payment of annual district taxes, pay for their portion share, of the districts' annual cause for improvements, in the proportion that they own property on that road. In addition, the developer will pay up to \$50,000 toward engineering and legal fees for a mapped plan and report through the creation of such a Highway Improvement District.”

Paragraph #11 – The same thing, with the addition that it will be triggered upon the completion of the first phase, but not before the development of 200 units.

Paragraph #12 – No change.

Paragraph #13 – No change.

Paragraph #14 – This paragraph is the same as paragraph #2, where the 900 units alternative being 40% reduction from the original basic plan was identified.

Paragraph #15 – No change.

Paragraph #16 – This paragraph is the same as paragraph #2, with the 40% reduction.

Paragraph #17 – No change.

Paragraph #18 – No change.

Paragraph #19 – No change.

Paragraph #20 – No change.

Mr. Plotsky said that this is now narrowed down to three issues, and the language. He said that the Board members have had this memorandum for a couple of weeks now, and based upon his discussions with the applicants' counsel, it is his understanding that they are not asking for any action to be taken tonight. He said that that is, in part, because of the

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potential change to paragraph #7, which has to do with the additional units, if the applicant removes the commercial element.

Mr. Plotsky then went back over the summary, starting with paragraph #2, which has to do with the language for the 900 unit alternative, and its' impacts representing an approximate 40% reduction of the basic plan, as initially presented, or presented in this FEIS. He said that as he understands it, the concerns of the Planning Board, in terms of wanting to identify the reduction, or review of lesser densities, was requested, is a concern about someone challenging the Boards' action, based upon the hard look. He said that the applicants' concern, with including that language in terms of specific numbers, is that the discussions that the Planning Board is suggesting be put into the FEIS, are really discussions that occurred during the course of litigation and executive session, or as a result of executive sessions.

Mr. Plotsky said that at an appropriate time, whenever that appropriate time will be, after the Planning Board accepts and finalizes the FEIS, subject to the review, that is when interested and involved agencies will have their opportunity to comment, and that's when that information should be done.

Mr. Plotsky said, concerning the Wilson Road Coalition, that the above is his answer to his repeated statements that the Board should not review their information. He said that the Coalitions' information was provided to the Planning Board secretary, to distribute to the Board, and previously he had directed, and he had this discussion and everybody knows what his position has been and continues to be, that he advised the Planning Board secretary to not distribute that information yet.

Willard Schadt said that he had received in the mail, information from the Wilson Road Coalition, and only read the first sentence, and then immediately returned the contents back into the envelope, and he said that his opinion is that this information is not be looked at, and even does not exist at this point.

Dan Loeb asked, to what extent can the Planning Board members look at the letters from the Wilson Road Coalition, that is, is there a general prohibition, or should each individual member censure himself?

Willard Schadt expressed his opinion, that the Planning Board members should censure themselves, because Mr Plotsky has made it clear that this material is off the record, and should not be looked at. He asked Mr. Plotsky, as acting Chairman this evening, to write to the person whose return address is on the envelope, and direct that person not to send anymore correspondence to the Planning Board members. He expressed his opinion that he finds this mailing to be very offensive. He said that this person is trying to get material to the Board members, without going through the process.

Mr. Brady asked about the material, and Willard Schadt offered the envelope with the contents to Mr. Brady, and said that he may keep it. Mr. Brady stated that it is also the applicants' position that these letters are not appropriate at this time. He said that he also has a concern with respect to an issue of a conflict of interest, which has not come to a head yet, and shouldn't be considered at this point.

ADJOURNMENT

Derek Wilson made a motion to adjourn. Mike Breitenfeld second. Roll call vote: Loeb, aye; Schadt, aye; Schock, aye; Breitenfeld, aye; D. Wilson, aye. Motion carried.

Meeting adjourned at 9:50 p.m.

Respectfully submitted,

Barbara Brollier, Secretary