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PUBLIC HEARING - GARY FLIEGER

The Deerpark Planning Board met for a public hearing on Wednesday, April 23, 2014 at 7:00 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Al Schock - Chairman	Bob Viccaretti	Theresa Santiago
Mike Hunter	Steve Weiner	

OTHERS

Mr. Glen A. Plotsky, Town Attorney	Mr. Bob Emerson.-Town Building Inspector
Mr. David Dean, Town Board Liaison	Mr. Gary Flieger, Applicant
Mr. Gene Terpening, Adjoiner	

The secretary read the public hearing notice: "Notice is hereby given of a Public Hearing to be held by the Planning Board of the Town of Deerpark, Orange County, New York, pursuant to Article 7 of the Town of Deerpark Zoning Law on the application of Gary Flieger for a lot line change. The application affects the following premises: Record Owner: Gary Flieger; Tax Map Designation: Section 50, Block 1, Lot 50; Zone Designation: HMU. Located at 180 Shin Hollow Rd., 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 7:00 o'clock P.M. on the 23rd day of April, 2014 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."

Al Schock: Gary, would you like to come up?

Secretary: Gary, do you have your mailings?

Gary Flieger: I do. Let me just give a little bit of a summary of where we're at here. I brought in paperwork tonight, and would you like a few minutes to read it. One of them is a letter from Orange County Land Trust of what they are doing. The other page is from the DEC itself. And it seems that one of the sticking points on this, is it's creating a land locked piece. If you read down this paper, you'll see what the State has said about that.

Glen Plotsky: Mr. Flieger, did you post the escrow, as indicated in my March 13th letter to you?

Gary Flieger: I did.

Glen Plotsky: I don't have any record of it, that's not unusual, but I just wanted to ask the question, thank you sir.

Bob Vicaretti: Do you have anything, anything else that you gave us here?

Gary Flieger: I believe I gave Barbara, hand-outs for you.

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Bob Vicaretti: I've got one, I don't have two.

Al Schock: These are the comments from the DEC, the Orange County Land Trust thing.

Gary Flieger: The DEC is the one, where up at the top, it says page one and two, that was the cover letter that I did for you.. Bill Rudge is the name at the bottom of the page there, and it gives you at the bottom, what his job is. Okay, just a summary, this parcel of land has a separate description in the deed. And this description was established over 100 years ago, when the railroad divided the property. It has changed hands many times, and the deed has reflected that, and there are separate descriptions on that. It just shares the same tax i.d. number. It is two parcels of property, but it shares the same tax i.d. number.

Bob Vicaretti: Two parcels, but one number?

Gary Flieger: I believe that you have the same situation on your property, where the railroad divides it. And if you look on your deed, it'll give the description for the south side and the north side, because the railroad divides it. But we don't have any rights across that property, the railroad doesn't give that right to us.

Bob Vicaretti: The only thing that is different though, the tax map in the Town of Greenville for the parcels there.

Gary Flieger: No, actually, that's another issue. Because in my property, the parcel that is between Shin Hollow and the railroad, and the first half of the mountain, have the same tax i.d. number. The second half of the property that is in Greenville, which has another tax i.d. number.

Glen Plotsky: The two parcels, as he is identifying it, is one parcel. Whether there are two different deed descriptions, which there are, but they are both on the same tax parcel. So, this application needs to get permission to separate them, so that they will have separate tax i.d. parcels. Once, that happens, he can sell the one piece on the far side of the railroad, to the Orange County Land Trust, who are going to donate it to the State... whatever is going to happen, is going to happen. And he'll still own the piece that is on Shin Hollow. He's accurate in saying that there are two different descriptions, and that the descriptions basically are separated by the railroad, which is the real reason for this application, he can't access it. It makes a lot of sense. But it's not two different parcels, even though you may treat it as such, because of the railroad. If this application is granted, then it will become two parcels. And then there is yet two parcels in the Town of Greenville, which he intends to do the same thing, in terms of his ultimate disposition, but this board has nothing to do with that.

Bob Vicaretti: The 70 acres is just the piece on the other side of the track, not the whole Shin Hollow side?

Gary Flieger: That's right.

Al Schock: When do we get a map, a survey map of the property?

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Gary Flieger: Let's put it this way. I can't invest thousands and thousands of dollars into doing a survey map here, of this land, if the board is not going to let me to separate it. So, you're asking me to invest into that, and I'm going to have a tough time doing that. Now, another thing, go back to what I was saying, go back to our town, years back, if your land was divided by a public road or a railroad, it was considered a natural barrier and you didn't have to go through that.

Glen Plotsky: But the Town of Deerpark does not allow for natural subdivisions, you're absolutely correct, there are some towns that do. Deerpark, at least since 1991 has not. The reason I identify the year 1991, is because that is when I came to town. Ordinarily, before we would approve this application, we would ask to see a full blown survey map, however, given the size of the parcel, the fact that it is wooded, and all of those other issues, I don't have any objection to the board considering an approval, being conditioned upon, submission of a signed survey map and properly prepared deeds. Those are the two things that I would require, in order to advise the Chair, that it would be appropriate for him to sign the maps, so that they can be recorded.

Bob Vicaretti: Could Gary go to the Tax Assessors' office, and get a tax map that shows the parcels that he is talking about?

Glen Plotsky: I think we have that.

Gary Flieger: Mr. Vicaretti, I have that one copy of that. I think that right there gives a better description than anything else that you would want, because it shows nothing but wooded land. There's no houses on that side of the railroad within a quarter of a mile of it. It's wooded land joining wooded land, and what effect could it have?

Bob Vicaretti: You'd just have to explain this parcel.

Gary Flieger: What we have here, is this is Shin Hollow, this is the railroad, this piece I'm keeping, this is the piece in Deerpark that's part of this. I own all of this.

Bob Vicaretti: What is this line here?

Gary Flieger: That's the dividing line between Greenville and Deerpark.

Al Schock: This is one tax i.d.

Gary Flieger: This whole thing is 70 some acres.

Bob Vicaretti: All I'm asking is, if you went to the Tax Assessor and got the tax map, it would show that, the acres and the lot numbers, which would be different from his acreage. Does he have a way to get that?

Glen Plotsky: But the tax map is only going to show one lot. It's not going to show the whole

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thing.

Bob Vicaretti: But it will show the separation lines, the red lines drawn on it.

Glen Plotsky: No, actually it won't show them. It won't even show all of those divisions, because all it will show is one lot, and then the Greenville lots, and it'll show the neighbors' lots.

Gary Flieger: And in my deed, it actually describes this whole thing. And if the board wants to go a step further with this, this line that goes across here, and this is separate, that was the piece of property that Alan (Schock) owned, and when Alan subdivided his property, the town allowed him to draw that line across there, which it became a landlocked piece. The town allowed him to make this a landlocked piece, which I purchased from Alan. So, that's how it was.

Bob Vicaretti: Okay, of the 70 plus acres, how much of those acres is what you want to see off?

Gary Flieger: 70 some acres. Everything on the other side of the track is going to go to the State.

Bob Vicaretti: Okay, how big of a parcel is in Deerpark?

Gary Flieger: About 83 acres.

Al Schock: Now, the existing one is going to be probably 8 to 10 acres on the Shin Hollow side of the tracks, and then probably another 8 or so acres on the other side.

Gary Flieger: I think it's 18.

Al Schock: Total?

Gary Flieger: Right.

Al Schock: Anymore questions from the board?

Gary Flieger: The one thing that entered into this, is the fact that we don't have access to this parcel of property from the Town of Deerpark, from Shin Hollow Road. If I were to give, and sell this whole parcel to the State, or give it to the State, or whatever, they still don't have access, because the railroad will not allow them to cross that property, without a walkway or a crossing, and it costs millions of dollars for them to do so.

Al Schock: What I was told, when I went to do it, it was a 5 acres lot and a 14 acre lot across the railroad tracks, and they would not allow me to subdivide that, put two different separate tax i.d. numbers on it, because if the railroad did go out of business, that separate parcel would be owned by someone on the other side, and it would be a landlocked piece of property in the Town of Deerpark. That's why they wouldn't allow me to do that.

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Gary Flieger: I'm actually giving this parcel of property an access point. This property does not have an access point today, but it might in 100 years when the railroad goes out of business. But the access comes from a different township, it comes from the Town of Greenville, and by annexing this to that, it becomes part of this Huckleberry Ridge State Park, giving you access to this parcel, and it's used all of the time. I didn't bring in, but I would like to, I have several stories from people who have used this trail, and it's used all of the time. But the DEC is not interested in this side, this side of Shin Hollow, because even if they did, they can't put a parking lot in, and give the people access to this.

Glen Plotsky: Do you have anything in writing from the railroad that says you can't cross it?

Gary Flieger: Other than the people getting ticketed for crossing and hunting. I don't have that in writing, but I do know that they do kick them off of there, they do ticket them for trespassing. I do have it in the DEC thing here, where the DEC says that they are not interested in it, because they don't have the access across it.

Glen Plotsky: Yeah, but for all I know, they're saying that, because you told them that. Gary, I'm really trying not to be difficult, but you keep throwing this stuff out there. If you just, frankly, be quiet, you've already made your point, and we could move on. But if you're going to keep raising the issue of the railroad, then I'm going to make you prove it. So, let it go, and we know what you want to do, and why you want to do it. I've indicated that although ordinarily we would prohibit it, as Mr. Schock indicated, because it's going to be landlocked. But based on the fact that you have the contract of sale, which raises a whole other set of issues that have now been addressed. But because you have the contract of sale and you've got the stuff from the Land Trust, I'm willing to say to the board, you can allow that piece to be temporarily landlocked, because ultimately it's going to be joined with or accessed through the State Park. Again, ordinarily, no, we wouldn't allow it, but based on the documentation that you submitted, I think it's sufficient. So, unless there's some particular point that you haven't made and you think you have to make it, because I think that at this point, the horse is pretty much dead. Then let's find out if anyone else wants to make any comments, and we can move forward. I don't care man, you're paying me \$150. an hour to do this, so you can keep talking all night if you want.

Gary Flieger: Does this board have anymore questions? Okay. Thank you.

Al Schock: Okay, at this time we are asking any members of the public who would like to make a comment, just step to the podium and state your name, and limit your comments to 5 minutes or less, and address the board with your comments.

Gene Terpening: My name is Gene Terpening, I'm one of the owners that owns a parcel right aside of this... 50-1-10.8, it's from Shin Hollow to the railroad and across. There have been discrepancies with Gary on property lines down there since way back in 1997, 1998, 1999. He just brought it up last fall, when the same people who want to buy his, so, I couldn't sell mine to them. Now, one thing I suggest, I want a survey done, the property lines and markers, I want to know where they are. That's my condition.

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Glen Plotsky: Oh, it will be done sir. Before any maps or deeds are approved, there is going to have to be a surveyor with a licensed stamp, a metes and bounds description.

Gene Terpening: Even if I have to pay for it, I will, but I want a copy of that survey.

Glen Plotsky: That's between you and whoever.

Gene Terpening: Well, I'd have to know who the surveyor is.

Bob Vicaretti: Would it be public record, if he foiled it?

Glen Plotsky: Well, it will end up being in the official file. The survey is going to have to be certified to the Town of Deerpark, as well as to whoever else it needs to be certified to.

Gary Flieger: I would be more than happy to furnish Mr. Terpening with the name of that surveyor who is doing this, and give a letter to that surveyor, so that Mr. Terpening can have access to that. And yes, I've had it surveyed, but he doesn't want to recognize my marks.

Gene Terpening: You haven't had that surveyed since... your son went down...

Glen Plotsky: Sir, sir...

Al Schock: That is not what we are going to settle here sir. Okay.

Gene Terpening: I want a survey before it's done, subdivided.

Al Schock: Well, that's not how it's going to go this time. We're not going to subdivide it, we are going to allow for it, because he has a buyer, and because it's a State, there's...

Gene Terpening: Orange County Land Trust is not the State. They approach it and sell it to the State later.

Al Schock: Do we have to get survey maps?

Glen Plotsky: Before anything is recorded. Absolutely. If you otherwise believe it's appropriate to grant the relief requested, you grant the conditional approval, subject to, being provided with a full stamped survey, but a licensed surveyor, along with a metes and bounds description, along with the appropriate deeds and other documentation that's required for this stuff to be recorded.

Al Schock: We understand that. It really doesn't matter, if there's a dispute between land owners, it doesn't really matter if it's between Gary and Mr. Terpening or Orange County Land Trust and Mr. Terpening, if there's a dispute, that is separate from us. We would not address that.

Gene Terpening: You're going to get the survey before the title is shown. That would address

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the situation right there.

Al Schock: How would it do that?

Gene Terpening: Because it a property boundary there on this side.

Al Schock: Anytime somebody can make a judgment or, what would you call that, a claim that is not proper, whether it's them or....

Gene Terpening: Well, yes, the problem comes from one side, I never complained about it.

Glen Plotsky: What's going to happen sir, is that the surveyor is going to go back through the historical record, and he's going to find whatever information he can about where the boundary is supposed to be. And, if I'm the Land Trust and I'm giving money for this, I'm going to want that boundary marked, and I'm going to want a metes and bounds description, that's how we do it. That's where the surveyors start, but we're not surveyors and we don't involved in that dispute.

Gene Terpening: Well, this is something I want resolved, before it gets into the State and then the State says, "you don't own this." You understand what I'm saying.

Glen Plotsky: I do. But then your other option frankly is to sue him now. I mean bring a lawsuit to have the boundary line determined, if you're that concerned about it.

Bob Vicaretti: Well, you should've brought a lawsuit against Gary sooner.

Gene Terpening: Well, he's the one that's complaining about it.

Bob Vicaretti: But you are now.

Gene Terpening: He lost me a sale about 11, 12 years ago. No sorry, he complained about it 14 years ago, 15 year ago. I said, get a survey that would solve it, that was my answer.

Steve Weiner: Sir, I think that what's going to happen here, after this meeting, if it'll go through, it has to meet his needs and meet your needs.

Glen Plotsky: You don't have an objection to what he wants to do, as long your boundary line is determined. Is that right?

Gene Terpening: I want a boundary line survey, so that I know what correct boundary line is.

Glen Plotsky: Right, but what I'm saying is that you don't care whether or not he owns two parcels next to you or one parcel next to you.

Gene Terpening: I don't care if there's 20 or 100, it's immaterial. I want that survey, so I know

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where it is.

Glen Plotsky: I understand. It'll be on file in the Town and you'll be able to access it.

Gene Terpening: I also have another complaint about that property.

Glen Plotsky: Okay, let's hear it.

Gene Terpening: Construction trash dumping, just off Shin Hollow Road, right on my boundary.

Glen Plotsky: And who's doing the dumping, if you know? Okay, that's something that we can look into before it's approved.

Gene Terpening: Because I lost two private sales of my property because of it. We don't want to look at that.

Glen Plotsky: I'll defer to the board, based upon that allegation; if they want any type of inspection performed before approvals are granted. That would be your option.

Gene Terpening: If I may, on that County map you have there, if I can point out my property, so it's easier to identify there. Somebody must have one.

Bob Vicaretti: Can I borrow that tax map you have there Gary?

Gary Flieger: Sure.

AT THIS POINT, SEVERAL BOARD MEMBERS AND MR. TERPENING WERE TALKING AMONG THEMSELVES, LOOKING AT THE MAP

Al Schock: Are there any more comments from the board? Are there any other public comments on this lot line, subdivision? If not, then I need a motion to close.

Theresa Santiago: I'll make a motion to close the public hearing.

Mike Hunter: Second.

Theresa Santiago: Yes.

Mike Hunter: Yes.

Steve Weiner: Yes.

Bob Vicaretti: Yes.

Al Schock: Yes.

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Motion carried.

Public hearing closed at 7:30 p.m..

Respectfully submitted,

Barbara Broliier, Secretary