

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, October 16, 2014 at 7:30 p.m. at Deerpark Town Hall. The following were present:

ZBA MEMBERS

Dan Witt, ZBA Chairman
Jane Lord

Jim Harrington
Lee Cornell

Christa Hoover



APPROVED

OTHERS

Mr. Glen A. Plotsky, Town Attorney

Mr. John Fuller, Civil Engineer

THE PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES - SEPTEMBER 18, 2014

Lord made a motion to accept the September 18, 2014 minutes as written. Harrington second. Roll call vote: Harrington, aye; Witt, aye; Hoover, aye; Lord, aye; Cornell, aye. Motion not carried.

MARIA YU TAI - # 14-0704

Represented by John Fuller, Civil Engineer 856-1536

Owner/ Applicant Maria Yu Tai is seeking an interpretation on parking requirements standards; and whether the Zoning Code, Section 230-26 applies to applicants' development, located at 491 Galley Hill Rd., Cuddebackville, NY

It is in the HMU zone.

Section - Block - Lot = 8 - 1 - 4.2

Application received July 3, 2014

Dan Witt said that each ZBA member sent an opinion that they had written to the Town Attorney.

Mr. Plotsky said that he based the final resolutions contained in this document, based upon the written submissions sent to him by 4 out of the 5 ZBA members. He read the proposed resolution: "Whereas Maria Yu Tai, a property owner within the Town of Deerpark, Orange County, New York, has made an application for an interpretation of applicable provisions of the Towns' Zoning Law relative to (1) the manner in which parking requirement standards are to be determined and applied by the Deerpark Planning Board; and (2) whether the provisions of Section 230-26 apply to the proposed development of her property located at 491 Galley Hill Road, Cuddebackville, Town of Deerpark, Orange County, New York, being designated as Section 8, Block 1, Lot 4.2; and the applicant Maria Yu Tai, having duly filed with the secretary of the Zoning Board of Appeals, an application requesting said interpretations; and WHEREAS, after due notice, a public hearing was held by the Zoning Board of Appeals on August 21, 2014 at 7:30 p.m. at Town Hall, Route 209, Huguenot, New York, to further consider the application; and WHEREAS, at said hearing, all those who desired to be heard were heard, and their testimony recorded; and WHEREAS, all testimony has been carefully

considered and the following pertinent facts noted: 1. The applicant premises are located in a HMU zone. 2. The applicant proposes to utilize property, currently vacant property, for the purpose of a commercial and residential, multi-use, multi-plan, multiple building development. 3. The proposal includes the creation of multiple store fronts at ground level for commercial purposes including shops and restaurants, with one, two and three bedroom residential apartments on the second and third levels. The proposal also provides for parking, open areas and related aspects of the multi-use concept. 4. The subject premises is 8.75 acres in size. 5. Section 230-16 of the Deerpark Zoning Law sets forth "Parking, Loading, Access and Traffic Standards." That section provides that each residential use shall be provided with two off-street parking spaces per dwelling unit. Parking for other uses shall be determined based upon factors set forth in Section 230-16(A). 6. One of the factors identified in this Section, is Industry studies of parking needs for the uses proposed. 7. The Section also sets forth specific guidelines that may be applied by the Planning Board for various uses in paragraph (6). 8. Applicant has requested that presentation of Industry Standards should be permitted due to the multiple uses proposed. It is suggested by applicant, that the number of parking spaces should not be based upon strict application of the guidelines in Section 230-16 (A) (6), as not all persons will be present on the site at the same time. 9. There's been no evidence presented to the Zoning Board of Appeals as to what percentage of employees of the commercial aspects of the proposed use, who will also be residents utilizing the residential uses. Similarly, there is no way for the Zoning Board of Appeals to determine the number of employees or patrons, who will reside off-site and therefore require parking. 10. The standards set forth in Section 230-16(a), will protect residents of the Town by providing adequate parking even if no employees or patrons reside on site, and even if all patrons, employees and residents are on site at the same time. There is no other mechanism to obtain this protection for the Town residents as well as residents and patrons of the proposed project. 11. Similarly, Section 230-26 sets for the minimum standards for "Multi-Family Residential Uses." This is precisely one of the proposed uses for the subject project. 12. Applicant specifically requested an interpretation as to what if any, of the design criteria from Section 230-26(I) should be applied to the Planning Board review of this project. 13. Although the proposal is not for separate properties. Lots, so as to be similar to "major subdivisions" as described in the Zoning Law, the impact of the multiple apartments proposed requires that the design criteria be imposed so as to protect the residents of the project as well as the surrounding neighborhood. 14. Although there may be cost impacts or limitations to the applicants' ability to develop the project, if the design criteria are imposed, the protection of future residents within the project as well as the protection of residents of the Town of Deerpark, must be of paramount importance. NOW THEREFORE, BE IT RESOLVED, by the Zoning Board of Appeals that the application of Maria Yu Tai requesting interpretation of applicable provisions of the Town's Zoning Law relative to: (1) the maner in which parking requirements standards are to be determined and applied by the Deerpark Planning Board; and (2) whether the provisions of Section 230-26 apply to the proposed development of her property located at 491 Galley Hill Road, Cuddebackville, Town of Deerpark, Orange County, New York, being designated as Section 8, Block 1, Lot 4.2 is decided as follows: 1. Strictly imposing the standards set forth in Section 230-16(A) for all proposed uses is the only mechanism that will protect the residents of

the Town by providing adequate parking, even if no employees or patrons reside on site, and even if all patrons, employees and residents are on site at the same time. As a result, Section 230-16(A)(6) is the appropriate measure of parking and shall be imposed as to all uses proposed for the property. 2. The standards and criteria for multi-family residential use set forth in Section 230-26 will protect the residents of the Town by providing adequate drainage, buffers, and related protections for all persons, both on and off site. There is no other mechanism to obtain this protection for the Town residents as well as residents and patrons of the proposed project. As a result, Section 230-26(I) contains the appropriate criteria and shall be imposed as to the uses proposed for the property.”

Mr. Plotsky asked the ZBA members if they want to add anything to this document, and that they do not have to accept this document tonight.

Jim Harrington said that what he got from the public hearings was that it is definitely an undesirable change in the neighborhood. He said that it is his opinion he feels that this ZBA should impose criteria, so there will be zero increase in run-off from the property. He said that this should be imposed by this board, and it is do-able, as per the Orange County Law.

Mr. Plotsky said that this not a request for a use or an area variance, and it his legal opinion, the undesirable change in the neighborhood, is not a criteria for determination of an interpretation. He said that that would be a criteria only for a use variance or an area variance. He said with regards to run-off from the property, candidly, it could very well be that other determinations were proposed in this draft resolution, because it arguably requires the maximum number of parking spaces potentially required, and could actually result in additional run-off, rather than less run-off. He said that the less parking required, would arguably mean less impervious surface, and thus less run-off. He said that his point is, for purposes of the interpretation, the request is for the ZBA to determine the design standard criteria, under the Law. He said that he does not think that there is a specific reference to drainage in that particular section of the Zoning Law. He said that the other section has to do with, how to establish the number of parking spaces. He said that he can add wording into the resolution, that it is desired that the least amount of run-off or drainage increase as possible, but he said that it cannot be a condition of the interpretation. He said that “no increase in run-off” is the desired goal of this board.

John Fuller said that according to the New York State regulations, a development cannot increase run-off, it’s a given, so he said that to put the ZBA at ease, it’s already in the regulations, and to mention it again in this resolution would be redundant.

Mr. Plotsky suggested that basically he will modify the document that he has drafted, to add a new paragraph 9, and it would essentially indicate that the board is desirous to minimize any increase for run-off from the property, resulting from any parking calculation, however it is determined. Mr. Plotsky then said that the board has two

options tonight, which is that they can either table the matter, and he can type in the added paragraph and distribute the document to the board members, and vote on it next month, or the board can vote on it tonight as amended, and he can make the change, and submit it to the secretary to give to the chair to sign.

MOTION

Lord made a motion to table discussion of this application until November 2014.

DISCUSSION: Jim Harrington stated that he doesn't see why the board just couldn't vote on this tonight.

There is no second to this motion.

MOTION

Hoovler made a motion to accept the resolution with the changes which is to include "zero increase in run-off." Harrington second. Roll call vote: Hoovler, aye; Harrington, aye; Lord, aye; Cornell, aye; Witt, aye. Motion carried.

ADJOURNMENT

Hoovler made a motion to adjourn. Harrington second. Roll call vote: Hoovler, aye; Harrington, aye; Lord, aye; Cornell, aye; Witt, aye. Motion carried.

Meeting adjourned at 8:25 p.m.

Respectfully submitted,

Barbara Brollier
ZBA secretary