

DEERPARK PLANNING BOARD - OCTOBER 13, 2010 - PAGE # 1

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, October 13, 2010 at 7:00 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Willard (Skip) Wilson, Chairman	Dan Loeb	Noel Malsberg
Mike Breitenfeld	Theresa Santiago	
Mike Hunter (Alternate member)		

OTHERS

Mr. Glen A. Plotsky, Town Attorney	Mr. Alfred A. Fusco Jr., Town Engineer
Mr. Karl Brabenec, Town Supervisor	Mr. Dave Dean, Town Board Liaison
Mr. Timothy Gottlieb, Gottlieb Engineering	Mr. John Furst, Esq.
Mr. John Fuller, Civil Engineer	Ms. Tammy Nosek, PE

THE PLEDGE OF ALLEGIANCE

CAMP DEERPARK, INC. - PUBLIC HEARING

Represented by Timothy Gottlieb, Gottlieb Engineering  
Owner/ Applicant Camp Deerpark proposes to expand their camp located on Brandt Rd., Cuddebackville, N.Y.  
It is an RR zone. Section – Block – Lots = 7-1-22.21 & 38  
Application submitted March 4, 2010

SEE ATTACHED PUBLIC HEARING RECORD

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

Al Fusco asked Tim Gottlieb, if we would waive any time periods?

Tim Gottlieb answered yes.

MOTION

Dan Loeb made a motion for negative declaration. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; Hunter, aye; W. Wilson, aye.

Mr. Gottlieb thanked the Board, and said he will get back to them.

DA TANG DEVELOPMENT, LLC - PRE-APPLICATION CONFERENCE

Represented by Timothy Gottlieb, Gottlieb Engineering  
Owner/ Applicant Da Tang Development, LLC wishes a lot line change and Site Plan approval for a proposed Bed & Breakfast. An existing barn structure will be renovated and converted to a B&B which will include a 2 bedroom Manager's apartment, 5 bedrooms for rental, kitchen and dining facilities, parking, new well and sewage disposal system, at 200 Galley Hill Rd., Cuddebackville, N.Y.  
It is an RS (residential settlement) zone Section – Block – Lot = 22-1-5.21 & 5.222

Tim Gottlieb said that right now, looking at the tax map and the proposed site plan, lot #5.21 is the lot that the applicant wants to consolidate with lot #5.222. He said that they then want to cut off a part of lot # 5.222 and add lot # 5.221.

Noel Malsberg said that the existing barn is an accessory building right now.

Tim Gottlieb said that the applicants want to convert the barn to a bed and breakfast, and remove the trailer, and Eliminate lot #5.21 totally.

Glen plotsky clarified by asking, is lot #5.21 going to be split?

Tim gottlieb answered no, it's going to be totally eliminated, and the land that is there, will be lot #5.222.

Al Fusco asked, you're going to combine it, and then divide it?

Tim Gottlieb answered yes. He said that lot # 5.21 is going to disappear, and lot #5.222 is going to become 24 acres, on both sides of the road, galley hill road.

Noel Malsberg asked about the five rental apartments that are attached to this whole idea?

Tim Gottlieb answered that it's a proposed bed and breakfast, a typical B & B, where you rent a room. He said that there also will be a managers' apartment, that being five rooms for rent, and then a managers' apartment.

Noel Malsberg said that there are quite a few items that are already built there. He said that the barn has now five accessory structures to it.

Mike Breitenfield asked, what's the purpose of creating this lot line here?

Tim Gottlieb answered that that becomes part of lot #5.221. He said that the lot line below that will be eliminated.

Skip Wilson said that a well will have to be drilled.

Tim Gottlieb concurred, and showed on the plan where it will be drilled.

Noel Malsberg asked if there is a plan for the old Cuddeback house on the west side of Galley Hill Road, because he believes that it is now presently being used as a dormitory.

Tim Gottlieb answered that he doesn't know the plans for that structure.

Al Fusco asked if the applicants are planning for the occupied bed and breakfast to be three stories?

Tim Gottlieb answered that he didn't know.

Al Fusco said that discussion and review will have to take place, regarding that issue.

Noel Malsberg said that all of these buildings are attached to the main house, until they are uncoupled in this lot line change. He said that as of now, they are all attached to the main house.

Tim Gottlieb agreed.

Al Fusco asked, what lot is the house on?

Tim Gottlieb answered, lot #5.222.

Glen Plotsky said, that the applicants are proposing to have the house and the bed and breakfast on the

same lot, and that is not allowed.

Tim Gottlieb answered that this is only a pre-application meeting, and that issue will be addressed.

Glen Plotsky said that basically the way to do it, would be to use Galley Hill Road as a subdivision line. He then asked, what type of workshop will be there?

Tim Gottlieb answered, a wood shop.

Noel Malsberg said that the applicants have already built four structures on the property. He said that one is a tower, approximately 35', and may be taller if they attach a spire. He referred to the plan, which says "previously approved garden", and said that he does not remember this Board approving any garden.

Skip Wilson said that that might've been approved by the Town Building Department.

Dan Loeb asked if there are any problems with a workshop being adjacent to multiple dwellings, as far as mixed use, multiple use, etc?

Al Fusco said that the Town Code addresses it, as far as separations, fire code, sprinklers, etc.

Skip Wilson told Mr. Gottlieb that two escrow accounts will have to be set up, one for town engineering fees of \$3,000 and one for town legal fees of \$1,500., when the application is submitted.

Mr. Gottlieb thanked the Board.

#### CINGULAR WIRELESS CELL TOWER

Represented by John W. Furst, Esq., Cuddy & Feder, LLP & Tammy Nosek, PE, Tectonic Engineering  
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

Mr. Furst said that AT&T is seeking a special use and site plan approval, to construct a wireless telecommunications facility, looking to cover a "gap" along Route 209 and Route 211, County Route 7, and the surrounding local roads, businesses and homes in that area. He said that the parcel where the tower will be located is 12.7 acres, which is currently utilized for commercial purposes. He said that AT&T is proposing a 125' self supporting monopole, which will have 12 antennas on the top, which will have a center line height of 123', but the antennas will not extend above the height of the pole itself. He said that the proposed monopole will be designed to co-locate three additional carriers, and also a small GPS antenna approximately 70' up on the monopole. He said that the ground equipment includes a proposed 2,500 square foot compound, that's going to be surrounded by a 6' fence, and within that compound AT&T is proposing a shelter which will be 28' long, 12' wide and 12' high. He said that there should be enough space for the additional carriers as well. He said that a "self supporting" tower means that it's not guide wired or not a lattice tower. He said that it will be lattice steel.

Glen Plotsky asked about a "pine tree" look of the monopole?

Mr. Furst answered, if that's what the Board wants, but also said that that look doesn't always appear good looking, that is, not blending into the surrounding trees.

Mr. Furst said that under the Towns' wireless law, this application is permitted, via special use permit and

site plan approval. He said that the engineer looked for existing structures of suitable height, but could not find any. He said that the proposal is within a commercial zone, and is not abutting any residential properties. He said that the facility has been re-located, since there was a question at their July Planning Board meeting with respect to setbacks of the original location, and some waivers might've been needed, so that it's now re-located further within the interior of the property, meeting all 125' setbacks. He said that the multiple surrounding trees will help provide for the coverage, blocking some of the views. He said however, that no trees will be removed, as there is an existing access and parking that will be utilized.

Mr. Furst said that for tonight, he and the engineer are really at this meeting for some perspective, or some key vantage points, in connection with the photo simulations. He said that they are seeking any feedback from this Board, as far as any specific key vantage points, that the Board or the Town Engineer is concerned about. He said that in taking the photo simulations, they have to acquire a big crane, it's an involved process, and they want to do it right, because they only want to have to do it once.

Al Fusco referred to his technical memo, dated October 13, 2010. He said that the switching of the location now, does meet the 125' setbacks. He said that the applicants submitted EAF (Environmental Assessment Form) states that there is a potential archeological sensitive area nearby, so that needs to be followed up with a written report. He said that the EAF does not mark any aesthetic resources, and that needs to be discussed further, because Mr. Furst may be correct that it doesn't contain any, but he does not agree with that assumption yet. He said that balloon tests, etc. still have to be performed, and then those tests would be related to how they will be marked on the plans. He said that the applicant wrote in Appendix "D", that it relates to visibility in other areas, and the Basherkill wetland area should be included. He said that he suggests that the Town Building Inspector should do an inspection at the property owners' invitation, so that he and the Board can review, and make sure that the existing commercial use is operating in accordance with the Town Ordinances. He said that this would be a standard inspection, because AT&T will be sharing the property with Brim Recyclers. He asked Mr. Furst to verify the co-location data.

He said that part of the Town Ordinance is that the Board is required to look with the applicant at alternatives and options, which may include shorter towers, multiple towers, single towers, unique designs, etc., to mitigate any adverse impact. He asked Mr. Furst to verify the height requirements, and try to minimize the height, in accordance with the Town Ordinance. He said that the Ordinance also specifies that the applicant plans to co-ordinate or co-locate with other providers, which it appears is being done by this applicant. He said that Board comments must also be addressed.

Mike Breitenfeld asked if the Cuddebackville Post Office is located on Brim Recycle property?

Al Fusco answered that the Post Office is in front of the Brim property, and may also be owned by them.

Dan Loeb asked where is the archeological sensitive area?

Al Fusco answered he doesn't know, and how that works is, the NYSDEC has a map which will locate sensitive areas, and any land within ¼ mile of it, has to be investigated. He said that if any arrowhead, etc. is found, it may have to be addressed with the Office of New York State Parks Recreation and Historic Places, and a sign-off will be needed.

Theresa Santiago asked if the land that the proposed tower will be placed is part of Brim Recycling?

Al Fusco answered yes, it does appear to be.

Theresa Santiago asked, isn't that adding to a non-conforming use?

Al Fusco answered that a site visit by the Building Inspector should be done, to verify Code compliance with the existing use.

Mr. Furst stated that this proposed tower is a separate use that is separately permitted under the Town

Code. He said that there is a specific provision for special use permit and site plan for telecommunications facilities. He said that the "non-conforming" portion, or whatever may be there, is not being enlarged or increased by the proposed cell tower facility, since the tower is permitted under the Town Code.

Theresa Santiago said that it will be adding to the non-conforming use.

Mr. Furst answered that what his client is proposing is not a non-conforming use, but is permitted, via special use and site plan approval.

Theresa Santiago again stated that it will be located on a non-conforming property.

Skip Wilson said that the Town Engineer will closely look at this issue.

Glen Plotsky said that the Board is aware of where this property is, and the history of this business, and it will have to be verified whether or not that would be something that would preclude this. He said that this is an expansion of uses on a property that may currently be non-conforming, but the proposed use that would expand it, is actually conforming.

Al Fusco said that this existing property will now be reviewed for site plan approval and special use permit, to make sure it is in compliance, even though the proposal is a permitted use. He said that it has to be made sure that the property is already in compliance with what this Board approves.

Mike Breitenfeld asked, what is the range from east to west?

Mr. Furst answered on Route 209, it'll be approximately just south of Brandt Road to just north of old Route 209, and then east-west, the coverage will be to where Route 211 bends, to County Road 7.

Dan Loeb that concerning the balloon tests, the higher elevation on Route 211 may be preferable.

Skip Wilson agreed, and said that the old landfill up on Route 211 may be a good location.

Al Fusco said that the test should be down Route 211 further, approximately where the Basherkill is located.

Glen Plotsky said that Oakland Valley Road should also be included.

Al Fusco said that the project engineer and himself should get together and review this, and set up an appointment with the Building Inspector to conduct an on-site inspection.

Mr. Furst said that he prefers that the balloon tests be conducted after the leaves are off the trees.

Mr. Furst thanked the Board.

#### ARTHUR TROVEI APPLICATION

Represented by John Fuller, Civil Engineer

Owner/ Applicant Arthur Trovei wishes to purchase land from the adjoining Elks Lodge property and create a lot line change, on property located on Route #6, Town of Deerpark, Orange County, N.Y.

It is an I.B. Zone.

Section - Block - Lots = 57 - 1 - 30.2 & 31.2

Application received October 5, 2010

Mr. Fuller said that Mr. Trovei is planning on purchasing 1.13 acres from the neighboring Elks Club, and the common property line will be removed and the new lot line will be coming off of Route 6, taking a slight jog

and heading back toward the brook at the rear of the property. He said that the extension of the Elks Club parking lot would slightly protrude onto, what will become the Trovei property. He said that it is in Mr. Trovei's interest to keep that portion, mainly as driveway access. He said that the lot line that is currently being eliminated, has a line of vegetation along it, which Mr. Trovei will preserve, so it'll be a buffer between the properties. He said that Mr. Trovei will then keep his own access, coming along that part of the property, to the rear of the area that he is currently purchasing from the Elks Club.

Skip Wilson said that there was an issue of the Elks Club parking, that was discussed at the pre-application meeting.

Al Fusco said yes, it was a question of taking that piece of asphalt, does it inhibit any of the Elks Club parking.

Mr. Fuller answered, generally speaking, he would say not. He said that in the general course of business it will not have an impact, as the Elks Club does have adequate parking, when he host an event.

Al Fusco said that he did take a look at this property, and by taking that piece off, it does not eliminate a row of parking. He said that there is more than enough parking available.

Dan Loeb asked about the septic location?

John Fuller answered that there is a septic ring located over 30' from the property line, which he then indicated on the site plan. He said that there is also a well located next to the building, and that Mr. Troveis' well is located within the footprint of his house.

#### MOTION

Skip Wilson made a motion to waive a public hearing for the Trovei application, and any further review, and grant final conditional approval, subject to, the submission of new deeds to the Town Attorney, and payment of all fees. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfield, aye; Hunter, aye; Loeb, aye; W. Wilson, aye. Motion carried.

#### DEERPARK VILLAGE - DISCUSSION

Glen Plotsky said that with regard to a Deerpark Village discussion, he apologized to the Board that he was not able to put together the outline from the last Planning Board meeting, for the proposed changes, and therefore, there will be no discussion this evening.

#### DRAGON SPRINGS BUDDHIST, INC. - DISCUSSION

Skip Wilson said that the extension that this Board gave to this applicants' special use permit, will expire on October 28, 2010, and asked that the discussion of this application be placed on the October 27, 2010 agenda.

Al Fusco said that he met with the Town Supervisor, and gave this applicant copies of everything that will be charged to the Planning Board escrow account. He said that his approximate charges are \$4,700, and the applicant had \$5,500 in their escrow. He said, however, this Board had required additional building inspections, by the Town Building Department, as part of the site plan approval, and those monies have not been placed in the escrow, as of today. He said that the applicant can either place the money for these inspections, into the existing Planning Board escrow, or they can set up another separate escrow for those bills. He said that he did give the applicant copies of those bills.

Skip Wilson said that he will not stamp this applicants' maps, until they put sufficient money into the escrow account.

Al Fusco said that the County is requiring a SEQRA resolution for this applicants' site plan, and he will draw up that document.

COMMUNICATION FROM THE TOWN SUPERVISOR

Karl Brabenec said that there all Planning and Zoning Board members are State mandated to take a 4 hour training course each year, and NYMIR, through their website, offers that training. He said that he had e-mailed all the Board members, on how to log in with their accounts. He said that even if a member has already taken the course, they can still log on and take a refresher. He said that all Board members must take this 4 hour training by December 31, 2010 for this year. He said that he is also setting up a class at town hall, with the Town Attorneys, for any Board member who would rather not take the class online. He said that the County also offers several courses throughout the year, and he will pass that information on to the Board members, after he receives it.

BASHERKILL SUBDIVISION

Theresa Santiago asked about the progress of this application?

Skip Wilson answered that they were last before this Board in October 2008.

The Board instructed the secretary to write to this applicant, saying that they need to reply within 30 days and give this Board an update.

DA TANG DEVELOPMENT LLC

Noel Malsberg asked if the Board could request the Building Inspector to report on what he has approved for this applicant to build, as this Planning Board had never approved the garden, or other items that have been erected at their site.

Al Fusco and Skip Wilson both answered that they will approach the Building Inspector with this request.

ADJOURNMENT

Dan Loeb made a motion to adjourn. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfield, aye; Hunter, aye; Loeb, aye; W. Wilson, aye. Motion carried.

Meeting adjourned at 8:05 p.m.

Respectfully submitted,

Barbara Brollier, Secretary