

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, April 28, 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
Noel Malsberg

Dan Loeb
Mike Breitenfeld

Derek Wilson
Theresa Santiago

OTHERS

Mr. William A. Onofry, Town Attorney
Mr. John Fuller, P.E.
Mr. Charles Swartz, Applicant
Mr. Randall Coffill, Esq.
Mr. Scott Buchholz, P.E.

Mr. Alfred A. Fusco, Jr., Town Engineer
Mr. Dominick Alfieri, Applicant
Mr. Randy Sauschuck, Applicant
Mr. William Greenlaw, Applicant

THE PLEDGE OF ALLEGIANCE

CHARLES SWARTZ – PRE-APPLICATION CONFERENCE

Represented by himself 856-1330

Owner/ Howard Kuperman

Applicant/ Chuck Swartz wishes to create a flea/ farmers market on property located on Route 6, Town of Deerpark, Orange County, N.Y. It is an IB Zone.

This was Mr. Swartz second pre-application conference, as the Board had told him to come back. He said that he would like to create a flea and /or famers market on the property, where he already has a log furniture business. He said that there is a lot of impervious surface at this facility, and he would like to operate on Thursdays, and Saturdays and Sundays.

Skip Wilson said that he had spoken with the Building Inspector, who said that he has no problem with this applicants' proposal.

Mr. Fusco handed out copies of the approved site plan for this property, and said that Swartz can use either this site plan, or the original 1997 Interstate Vandors' site plan. He said that bathrooms have to be placed on the new maps, handicapped parking,

The Board instructed Mr. Swartz to get new site plans made, with hours of operation, number of employees, his new sign and submit an application and pay the site plan application fee.

Mr. Swartz asked about vendors' licenses, and Mr. Onofry answered that he can get temporary licenses from the Town Clerks' office.

Skip Wilson instructed the applicant that he would have to establish escrow accounts in the Town Supervisors' office, of \$500 for legal fees and \$500 for town engineering fees.

SUMMIT RESEARCH INC. - PRE-APPLICATION CONFERENCE

Represented by Bill Greenlaw 973-800-3798

Owner/ Applicant Summit Research wishes to build an addition of 25,000 square foot warehouse & replace one existing spray dryer, on property located on Big Pond Rd., Huguenot, N.Y. It is an HMU Zone.

Mr. Greenlaw handed out two maps, one proposed site plan, and one elevation map, as viewed from Big Pond Road. He said that there is an existing spray dryer, which the company wants to replace with one that has a bigger capacity. He said that the proposed 25,000 foot warehouse will be two floors, that is, 13,651 feet per floor, with adjoining wings. He said that there are now 120 employees, and approximately 18 employees will be added,

and said that the proposed parking lot will accommodate those added cars, and also a proposed truck turn around area and loading dock, which will get the trucks in and out more quickly. He said that they are anticipated a 24/ 7 operation, with employees working three shifts.

Dan Loeb asked, what is a spray dryer?

Mr. Greenlaw answered that there are four dryers there at present, and this new proposed dryer would replace the one. He explained that they make anti-persprant ingredients, and make a liquid which is put into the dryer which removes most of the water to form a dry solid. He said that those solids get trucked to another company which make them into anti-perspirants.

Skip Wilson asked about the height of the buildings?

Mr. Greenlaw answered that they will be over 35', which is not any higher than what is already existing, and it's steel construction. He pointed out the existing dryer #4 on the site plan, and also the location of the new dryer, which would create basically a mirror image. He also indicated on the site plan, the proposed warehouse, which will be concrete and steel, which will be 41' from the lowest point. He said that the grade does drop down, so at the upper part, the Big Pond Road entrance, a passerby will not perceive any additional height.

Al Fusco, what is the average height?

Mr. Greenlaw answered that he will have to research that, and will put in on the new site plan.

Al Fusco answered that if cannot come up with 35' or lower, than he will have to get a variance from the Zoning Board of Appeals to meet the Town Code.

William Onofry concurred, saying that even though the original building were erected under the old Zoning Law, the applicant will have to conform the new buildings, under the new Zoning Law.

Mr. Onofry said that since the proposed new dryer building will exceed the minimum height requirements, the applicant can apply to the ZBA for two variances on one application.

Al Fusco asked, what is the height of the existing spray dryer?

Mr. Greenlaw answered 50'

Al Fusco asked, what is the height of the existing dryer that they are replacing?

Mr. Greenlaw answered that it is much shorter than 50'.

Mr. Greenlaw interjected by saying that the existing dryer does conform with the existing roof line.

Mr. Onofry said that the pre-existing dryer would be the basis used, when he applies for the new height variance.

Derek Wilson said that the Zoning Law has a maximum lot coverage, and told the applicant that if they will exceed that max., then they would also have to apply for a variance for that lot coverage.

Mr. Greenlaw answered that the building is approximately 14% building coverage, which is under the 20%, which is what is allowed in the HMU zone.

Derek Wilson asked about the run-off?

Mr. Greenlaw answered that this proposal adds the upper parking area.

Derek Wilson said that they would then have to conform to whatever the run-off is for SPDES permit for impervious surface.

Al Fusco said that stormwater treatment will be done, that is, a sand filter can be installed at the end of the parking lot, rather than taking it way over to the retention area, which is pretty far away. He said that another alternative

is, would be to put a swale around it.

Al Fusco said that the applicant should check the parking, to make sure that it will not exceed what is allowed by the Zoning Code, otherwise, they will have to get a variance for parking also.

Al Fusco and Mr. Greenlaw exchanged business cards, and Mr. Fusco told Mr. Greenlaw to have his professional get in touch with him.

Skip Wilson instructed the applicant that he would have to establish escrow accounts in the Town Supervisors' office, of \$1,000 for legal fees and \$1,500 for town engineering fees, and also submit a site plan application, and pay the \$200 Planning Board application fee.

SAUCHUCK MAINTENANCE & BACKHOW – PRE-APPLICATION CONFERENCE

Represented by Randy Sauschuck, Randall Coffill, Esq. & John Fuller, P.E. 856-1536

Owners/ Applicants Randy & Barbara Sauschuck wish a lot consolidation on property located on Hook Rd., Sparrowbush, NY 12780

It is an HMU Zone. Section 41, Block , Lots 18.11, 19.1, 20.1 and 18 and Section 42, Block 1, Lots 1, 2 and 3 (7 parcels total)

Mr. Coffill told the Board that the Building Department sent a letter, regarding this property and complaints. He said that he is not sure if this is a Planning Board issue, or if they would have to refer this applicant to the ZBA for an interpretation. He said that according to the Building Inspectors' April 20, 2010 letter, it sets forth that the principle use of this property was authorized by the Planning Board, as a building/ contractors' yard. He said that the building of the pole barn was the last application that his client brought before this Board, and it's an accessory use to the principle use, with storage of items related to the principle use. He read from the letter... "complaints regarding the operation of a soil mixing operation" and said that the applicants have an excavating business, and they have trucks and material, and they need to get the material from the piles into the trucks. He said that there is another operation, and he said that delivering topsoil to a site, the dirt then has to be taken and sifted and loaded onto the truck. He said that this is an integral part or an accessory use of an excavators' place of business, where they're doing that. He read again from the Building Inspectors' letter... "...one, the Building Department does not have any record or issuance of the filing of a special use permit." He said that in checking the records, and historically this property was owned by Sparrowbush Oil Company, and then when Mr. Sauschuck purchased this property, there was a paving operation there. He said that for at least the past decade, there has been basically a builder/ contractor yard in place and operating.

Mr. Coffill said that the issue is 1) there isn't a permitted use in the Town of Deerpark in the HMU zone, for a building/ contractor yard. He said that that would be a special permit use, under the present Zoning Law which was enacted in 2004. He said that he doesn't know, if under the prior Ordinance, if a building/ contractor yard was a permitted use in the HMU zone.

Skip Wilson asked, this property has been used constantly, as a building/ contractor use, for a length of time?

Mr. Coffill answered yes.

Derek Wilson said that it might have been vacant when Sparrowbush Oil was there for a time.

Randy Sauschuck answered that there was a blacktopper there, when he purchased the property in 2004. He said that H & L Lubricants was also on the property around that time, and Coda was also using it for storage.

Mr. Coffill said that in order for his client to present a site plan before this Board, it may be necessary to obtain an interpretation from the ZBA., prior to submitted a Planning Board application.

Al Fusco suggested that the applicant make an application before this Board, and he will work with Mr. Fuller on the particulars.

Randy Sauschuck asked, application for what? I'm already in business.

Al Fusco answered, yes, for what the operation is now.

Mr. Coffill read from the Building Inspectors' letter... "we're authorized by this Planning Board, as a building/contractors' yard."

Derek Wilson said that this Board does not tell a business if they are operating correctly or incorrectly.

William Onofry asked, when was the determination made, that the property was an authorized building/contractors' yard?

John Fuller answered 2005, which was the last site plan that this applicant was before this Board for.

Randy Sauschuck said that when he purchased this property, if he was supposed to get a special use permit, than the Building Inspector should have told him this information at the time, which was approximately 6 years ago.

William Onofry answered that it is not the Building Inspectors' job to tell a purchaser what the purchase would entail.

Randy Sauschuck said, well, was that my attorneys' job?

William Onofry answered, yes it could be, yes.

Randy Sauschuck said that Bavoso and Plotsky were his attorneys' and they never told him that.

William Onofry answered that that could be a possible issue. He said that in 2005, that it needs to be determined, whether or not the building/contractor yard use was established at that time. He said that his office can pull the minutes from that 2005 determination, and determine if a building/contractors' yard is what the determination was made for.

Randall Coffill said that it is not clear. He said that everyone would probably agree what the definition of a building/contractors' yard is, and the fact that Mr. Sauschuck is already running a business that has piles of materials that he's using for his business... he said that it's obvious that he takes the piles of materials and puts them on trucks, so that they can be delivered to his work sites. He said that that is pretty clear. He said that the question is, that Mr. Sauschuck has piles of raw materials, and he need to take the raw stuff and make it into deliverable material, before he can deliver it.

William Onofry said that he understands what Mr. Sauschucks' job is, and he's not disputing that, and neither does he necessarily think that the Town has grounds to tell Mr. Sauschuck to terminate his business. He said that if the Board wants to seek an opinion from the ZBA, as to the definition of a building/contractors' yard, then an answer can be gotten.

Al Fusco said that before the Planning Board asks for an interpretation, they will need an application from the applicant. He said that the first thing that he would recommend, is for the attorneys to do their research, and that John Fuller, the Building Inspector and himself would make a site visit inspection. He said that he has not seen this property, and would like to be able to see what he will be talking about.

Randall Coffill said that his client will submit a Planning Board application for an interpretation. He said that the interpretation, would obviously depend then on what site plan will be submitted, that is, other things that are also other issues.

Dan Loeb said that there is no question that a citizen can conduct a builder/contractor storage yard business. He

said that the question is, does the applicant refine these materials to their final state?

Randall Coffill answered that essentially, that is the issue, that we have a pile of dirt, and it can't be delivered to the site, which he needs to deliver. He said that the issue on that is, that within the Ordinance is that in the building/ contractors' yard, or is it customarily accessory to that contractors' yard business. He said that he thinks that that will be a ZBA issue.

William Onofry said that once a Planning Board application is submitted, then the Board can make a determination, or send it to the ZBA for a final determination.

Skip Wilson instructed the applicant that he would have to establish escrow accounts in the Town Supervisors' office, of \$500 for legal fees and \$500 for town engineering fees, and also submit a site plan application, and pay the \$200 Planning Board application fee.

Derek Wilson said that the applicant will need to research what a "nuisance" is, and make suggestions as to how to reduce that nuisance, whatever it is.

Dan Loeb said that under definitions and uses in the Zoning Law in the HMU zone, there is "light manufacturing" and said that the applicant can also research that.

Derek Wilson asked, did you also want a consolidation?

Randall Coffill answered yes, approximately 7 lots.

Mr. Coffill thanked the Board.

DEERPARK EXCHANGE

Represented by Dominick Alfieri and John Fuller, P.E.

Owner/ Applicant Dominick Alfieri proposes a two story commercial building on Route 6, Port Jervis, N.Y. It is in the IB (Interchange Business) Zone. Section – Block – Lot = 57 – 2 - 14

Mr. Fuller said that it was approximately one year ago that this Board held a public hearing, and he has been pursuing the various necessary approval permits for this project, which are the NYSDOT, Orange County Department of Health and NYSDEC. He said that he has gotten written approval from NYSDOT and the DOH. He said that he has gotten an e-mail from the NYSDEC saying that their approval is in process, and he should be getting the approval soon, for both septic and stormwater.

Al Fusco referred to his technical memo, dated April 26, 2010, saying that most of his previous requirements have been handled. He said that what remains is the Orange County Health Department, which is a catch 22, he can't get his DOH approval until he gets his well, and he can't get his well, until he gets this Board's approval. He said concerning the SPDES permit, it is pending. He said that, concerning the NYSDOT, the applicant still needs to apply for a drainage work permit, so he can work in the right-of-way. He said again, that's another catch 22, because he can't get that permit, until he gets this Board's approval. He said that he would recommend that these remaining items would be approved through the Building Department permit process, which he personally still becomes involved in, as the Building Inspector asks him to become involved in the commercial applications. He said that he can keep track of the approvals, through the building permit process. He said that the special use permit and site plan approval can be granted with the provisions that the building partners follow through.

Al Fusco said that in the existing Ordinance, the special use permit and site plan approval, provide provisions for a performance bond for the improvements, and also a restoration bond, as requested by the Board. He said that calculating the cost, it comes out to approximately \$300,000, in site improvements, which Mr. Fuller can either confirm or give a different dollar amount. He said that there is an inspection fee that goes with that.

Al Fusco said that the Board also has the right to waive the performance bond, on a case by case basis.

MOTION

Skip Wilson made a motion to waive the performance and restoration bonds for the Deerpark Exchange

application, but not the inspection fee. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

Derek Wilson asked Mr. Alfieri if he is going to a bank to get a loan for this project, and that this project does require a special use permit, the way the Zoning is now,.

Mr. Alfieri answered that a bank is his first choice, and if that doesn't work out, he said that he has private lenders, and no one has mentioned a problem with lending to him, because he is required to obtain a special use permit.

MOTION

Derek Wilson made a motion to grant conditional final approval for a special use permit for a period of one year for the Deerpark Exchange application, based on the Building Inspectors' oversight of the approvals from the NYS DOT, NYS DEC and Orange County Health Department, Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

BRIAN & STEPHANIE FOLEY

Represented by Scott Buchholz, P.E. 343-2511

Owners/ Applicants Brian & Stephanie Foley wish a lot line change on property located at 505 Prospect Hill Rd., Cuddebackville, NY

It is an RS zone

Section – Block – Lot = 18-1-15 & 19.1

Application submitted March 5, 2010.

Al Fusco said that at the last meeting, the Board had asked the project engineer if it were possible for the applicants to transfer a portion of the land of the parent piece, over to make lot #1 more conforming. He said that the engineer was not able to do anything about the lot width, but was able to bring the size of lot #1, up to the two acre minimum, as prescribed by the Town of Deerpark Zoning Law.

Al Fusco said that his office re-checked the surveyors' metes and bounds description, and he has also seen the proposed deeds, which were forwarded to the Town Attorneys' office.

William Onofry said that his office has no problem with the submitted deeds.

MOTION

Derek Wilson made a motion to waive any further action on the Foley lot line change, and to give final approval. Dan Loeb second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

DEERPARK VILLAGE - DISCUSSION

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 - Lot : 23 - 2 - 32.2 & 38.8

Application received August 30, 1993

Skip Wilson told the Board to pick up their FEIS documents, before leaving this evening.

Al Fusco said that all of the changes in this document have been red lined, and it starts out with a "missions statement", making it clearer. He said that the board may now go forward with the SEQRA process. He said that two issues in particular are:

- 1) Culvert: The applicant is insisting on only paying 90%, and the Town should pay 10%.

Al Fusco said that it is his position that the applicant should pay 100%, because the reason the culvert has to be improved and replaced is because this applicant is there on Wilson Road now. He said that if they had never proposed a project, than the culverts would not have to be improved or replaced. He said that in the findings statement, the Board can agree on a percentage, whether it will be 90\$, 100%, or 94 1/2%, whatever the Board feels is appropriate.

2) Reclamation of Wilson Road: The board has asked Mr. Fusco to speak with the Town Highway Superintendent, and Mr. Hughson has stated that he wants Wilson Road to become 22' wide, reclaimed (dig up the blacktop), lay that down for a base and then 2" binder at the top (for the plus or minus 1,599 units), Al Fusco said that the Highway Superintendent recommends a 20' width, along with the reclamation, for a lesser amount of units. He said that the Highway Superintendent wants this for the entirety of the road. Al Fusco said that the applicant said that the bulk of the traffic will go onto the Route 42 side of Wilson Road, not the Route 97 side, and they do not want to reclaim the section of Wilson Road that goes out to Route 97. Al Fusco said that the applicant says that if there are only 900 units, which would be a 60% reduction, there is not such a large of an impact. He said that the applicant said that after they build the first 500 units, they will look at this with the Town, and the Town has to look at the right-of-way with them, and they came up with a formula that says, "for every unit above 900, that the Town allows them, they will give the Highway Department \$10,000 for an appropriate unit cost, like an approved, but un-approved unit cost."

Al Fusco said that these changes still have to be made in this document, after the board makes some decision.

Derek Wilson asked about the commercial area, which is supposed to be for the sole use of the residents and their guests. He said, however, the applicant has them placed on Wilson Road, which will affect the traffic patterns. He said that that commercial area should be re-located to the interior of the site.

Al Fusco said that that issue has not been included in the changes.

Derek Wilson asked, how does this document handle the conflict with the Zoning Law, for both the County and the Towns' Master Plan, pertaining to density and location?

Al Fusco answered that the density issue is fairly clear in the Town Ordinance, however, the Master Plan is another issue.

Derek Wilson said that there were comments that came back to the Board from the Orange County Planning Department, pertaining to the proposed density.

Al Fusco expressed his opinion that the alternative has mitigated that portion of it, and that even though the application is for 1,518 units, that realistically the alternate has a lot more advantages to it, and the mitigation of it, and it brings that density down in line with what Derek has been talking about.

Al Fusco said that this Board will be putting together a findings statement, which includes mitigation of all of the questions that were brought up at the public hearing; the questions of both the previous town engineer and the present town engineers and the attorneys. He said that at this point in the findings statement, is the Boards' opportunity to let their position be known, and a determination will be made. He said that the Board can say that 1,500 units seems to be out of conformance, based on the SEQRA documentation to date, because the traffic counts are high, water and sewer, drainage, etc. Al Fusco said that looking at the alternate of 900 units, it is an improvement, which will be absolutely considered by this Board. He said that the Board can look at other number of units as well, i.e., 1,000, 800, etc.

Al Fusco said that the Board now has 30 days to look at this document, and come back with any questions. He said that the applicants are flexible, and he asked Mr. Onofry to ask Mr. Plotsky to contact the applicants' attorney, and say that the Board wants the 30 day clock to start today.

Al Fusco said that if these two issues cannot be resolved, or if the Board comes up with other issues, not necessarily agreeing with what he (Mr. Fusco) has put into this document, then at that point, there is a procedure in the agreement, where the various attorneys get together to work it out. He said that if the attorneys cannot

work it out, then it goes to the judge.

Dan Loeb said that the applicant had said that 900 units is their bottom line, and is that language incorporated in this document?

Al Fusco said that he believes so, in that he did allude to it, but he couldn't say 100%. He said that he believes that this Board is looking for lower numbers. He said that he had said that the applicant should pay for all of the paving, and Mr. Plotsky agreed with him.

Al Fusco told the Board that they can agree with this document, but still recommend less in their findings statement.

Al Fusco commended the Sparrowbush Fire Chief for providing information from 2003 to the present, concerning closures of Route 97, because of accidents.

Al Fusco said that the applicant is coming in for Stage One site plan approval, and at that point, they will be proposing to put the commercial part of the project in, and with that, they will be looking at screening, and as part of the Ordinance, this Board, will look at it, and come up with appropriate screenings.

The secretary was instructed to put the discussion of this application on the May 12, 2010 agenda.

INTERCHANGE BUSINESS ZONE DISCUSSION

Skip Wilson said that the Town Board had a meeting on Monday night and discussed changing the permitted uses, with Planning Board approval, in the IB zone.

Theresa Santiago asked when the Town Attorney is scheduling classes for the Planning Board?

William Onofry answered that he will check with Mr. Plotsky.

ADJOURNMENT

Derek Wilson made a motion to adjourn. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Barbara Brollier, Secretary