

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, January 21, 2010 at 7:30 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

#### MEMBERS

Martin Smith, Chairman  
Gerald Cedrone

Jane Lord  
Frank Bigger

Charlotte Russman

#### OTHERS

Mr. Glen Plotsky, Town Attorney  
Mr. Ronald Babcock, Applicant

#### APPROVAL OF MINUTES

Jane Lord made a motion to approve the minutes from the December 17, 2009 meeting. Frank Bigger second. Roll call vote: Russman, aye; Cedrone, aye; Lord, aye; Bigger, aye, Smith, aye. Motion carried.

#### RONALD BABCOCK - PUBLIC HEARING

Represented by himself

Owner/ Applicant Ronald Babcock is seeking a variance to re-construct the Hawks Nest Restaurant, on property located at 593 Route 97, Sparrowbush, N.Y.

It is in the Recreational River Corridor (RRC) Zone.

Section – Block – Lot = 33 – 1 – 2.3

Application received December 4, 2009

#### SEE ATTACHED PUBLIC HEARING RECORD

After the public hearing, Mr. Plotsky briefly spoke with the Board. He said that there are two determinations that they have to make. The first one is that under the interpretation of the Zoning Law, you believe that there is no 12 month restriction with regard the time frame, that the applicant must move forward to rebuild and re-open. He said that if they believe that, then their determination would be for the applicant to rebuild.

He said that the second issue is, that in regard to the special use option, the applicant should apply for a use variance to rebuild.

Mr. Plotsky told the Board that there were 1,013 signatures on the petition.

Charlotte Russman said that if the Board does not apply the 12 to 18 month restriction, then doesn't it give an opportunity for other businesses that have come into some sort of unique situation, to also bypass the variance process?

Mr. Plotsky answered that it would only apply to businesses that were destroyed by fire and were previously existing, and assuming that it was total destruction, then they would have to apply before the Planning Board for a special use permit. He said that if the ZBA allows this applicant to go directly to the Planning Board, strictly for a special use permit, not requiring a use variance, then there is no time constraint.

Martin Smith expressed his opinion that he is concerned about front yard setbacks.

#### MOTION

Jane Lord made a motion that the determination with regard to the interpretation be denied, that the time frame is still in effect, the applicant must obtain a use variance, and secondarily on the application for the use variance, that use variance will be granted, based upon the presentation of evidence given to the Board, showing that there is essentially no other economically, viable use of the subject property, and the Town Attorney will write a resolution, to support these findings, to be adopted by the ZBA. Frank Bigger second.

Discussion: Charlotte Russman asked, that if someone else comes before the ZBA and cannot prove their case for a use variance, does that limit that person to rebuild his business, that was already there, if there's another use for that property?

Martin Smith, answered that that is a decision that the ZBA would have to make, based upon the presentation of evidence.

Jane Lord said that the ZBA may decide that the business that was there, may not conform at all, and that they can rebuild it, because the zoning laws have changed. She said that the ZBA needs to vote on the safety of the community.

Frank Bigger said that not only the zoning law may change, but the neighborhood may change, giving the example of someone building a \$500,000 house in a neighborhood that does not support that elaborate of a home.

Gerald Cedrone said that concerning parking restrictions, the example of the re-opening of the Deerpark Cafe, which used to be called Santini's Restaurant, presented a problem of cars parking on the street. Roll call vote: Russman, aye; Cedrone, aye; Lord, aye; Bigger, aye, Smith, aye. Motion carried.

#### ADJOURNMENT

Jane Lord made a motion to adjourn. Frank Bigger second. Roll call vote: Russman, aye; Cedrone, aye; Lord, aye; Bigger, aye, Smith, aye. Motion carried.

Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Barbara Brollier, Secretary