

DEERPARK PLANNING BOARD - JULY 10, 2013 - PAGE #

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, July 10, 2013 at 7:00 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Al Schock, Chairman	Mike Hunter	Craig Wagner
Willard Schadt	Derek Wilson	Bob Vicaretti

OTHERS

Mr. Alfred A. Fusco, Jr, Town Engineer	Mr. Glen A. Plotsky, Town Attorney
Mr. David Dean, Town Board Liaison	Mr. Nick Olenick, Applicant
Mrs. Mervi Stack, Applicant	Mr. Kaijin Liang, P.E. , Dragon Springs
Mr. Timothy Gottlieb, Gottlieb Engineering	Ms. Lana Han, Dragon Springs; Esq.

THE PLEDGE OF ALLEGIANCEGARY BUTLER SUBDIVISION - # 07-0501

Represented by Mr. Timothy Gottlieb, Gottlieb Engineering 794-5506
Owner/ Applicant Gary Butler wishes a 2 lot subdivision on property located on Franke Rd., Huguenot, N.Y.

It is in the Residential Settlement (RS) zone.

Section – Block – Lot = 27 – 1 – 16.22

Application received April 30, 2007

Tim Gottlieb said that the discussion at the last meeting was about the drainage easement through the YMCA property, and he has since contacted them, and they told him that they were 99% sure that it could be granted to the town, although it has not been formalized, as of yet. He said that he has also spoken with the Highway Superintendent. He asked about the larger culvert, as written on the town engineers' technical memo?

Al Fusco answered that there's a 12 inch pipe, and he is making it a 15 inch on the low side.

Tim Gottlieb answered that he is okay with that.

Al Schock read the negative declaration: "In accordance with 6NYCRR Part 617 State Environmental Quality Review regulations, specifically 617.7 determining significance, the Planning Board of the Town of Deerpark has reviewed the project application for the Gary Butler subdivision. After thorough review of the application, plans, EAF, public comment, consultants comments, including review of the air quality, groundwater, stormwater, traffic, cultural resources, habitat, Town ordinance, Town Master Plan, impacts on energy, and impacts on the community, the Planning Board hereby proposes, by motion, that the above project will not result in any large or important impacts and therefore is one which will not have a significant impact on the environment. Therefore, we hereby issue a Negative Declaration for the above noted project."

MOTION

Wilson made a motion for a negative declaration. Hunter second. Roll call vote: Hunter, aye; Wagner, aye; Wilson, aye; Schadt, aye; Vicaretti, aye; Schock, aye. Motion carried.

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Wilson made a motion to waive the bond and set the escrow inspection fee of \$1,500 for public site improvements. Hunter second. Roll call vote: Hunter, aye; Wagner, aye; Wilson, aye; Schadt, aye; Vicaretti, aye; Schock, aye.. Motion carried.

MOTION

Wilson made a motion for conditional approval, based upon the applicant's conformance with the town engineers' comments, payment of all fees and granting of the discussed easement with the YMCA. Wagner second. Roll call vote: Hunter, aye; Wagner, aye; Vicaretti aye; Wilson, aye; Schadt, aye; Schock, aye. Motion carried.

JOHN, NICHOLAS & ANTHONY OLENICK - #12-0505

Represented by Nick Olenick 856-4942

Owners/ Applicants John, Nick & Tony Olenick are seeking a subdivision on property located at 232 Big Lake Rd., Huguenot, N.Y.

It is in the RR zone

Section -Block -Lot = 4-1-9

Application received June 15, 2012

Applicants received variance from the ZBA on June 20, 2013

Mr. Plotsky confirmed that this applicant did receive their variance from the ZBA, and it is forthcoming for the ZBA chairmans' signature.

Al Fusco said that that variance needs to be added to the subdivision map.

MOTION

Wilson made a motion for the board to take lead agency on the Olenick subdivision. Wagner second. Roll call vote: Hunter, aye; Wagner, aye; Wilson, aye; Schadt, aye; Vicaretti, aye; Schock, aye. Motion carried.

Glen Plotsky said that under the Towns' new Zoning Law, this board has the ability to waive a public hearing for a two lot subdivision.

Al Fusco cited Section 230-46, page 108, in the new Zoning Law: "The Town of Deerpark Planning Board shall, pursuant to Section 274A5 of the Town Law, have the right to waive, when reasonable, any of the procedural requirements, this article for the approval of modifications of permits, site plans submitted for approval. The waiver, authority is exercised in the event. Such requirements are found to be requisite in the interest of public, health, safety and general welfare, in particular site plan. Any waiver shall be subject to the following conditions." He explained the the conditions go forth, that it doesn't waive SEQR, and that it doesn't do anything that the ZBA has authority to do, and the ZBA did hold a public hearing already for this applicant.

MOTION

Schadt made a motion to waive a public hearing for the Olenick two lot subdivision, because there's no new development on the property. Wilson second. Roll call vote: Hunter, aye; Wagner, aye; Wilson, aye; Schadt, aye; Vicaretti, aye; Schock, aye. Motion carried.

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Al Schock read the negative declaration: "In accordance with 6NYCRR Part 617 State Environmental Quality Review regulations, specifically 617.7 determining significance, the Planning Board of the Town of Deerpark has reviewed the project application for the Olenick subdivision. After thorough review of the application, plans, EAF, public comment, consultants comments, including review of the air quality, groundwater, stormwater, traffic, cultural resources, habitat, Town ordinance, Town Master Plan, impacts on energy, and impacts on the community, the Planning Board hereby proposes, by motion, that the above project will not result in any large or important impacts and therefore is one which will not have a significant impact on the environment. Therefore, we hereby issue a Negative Declaration for the above noted project."

MOTION

Vicaretti made a motion for a negative declaration. Hunter second. Roll call vote: Hunter, aye; Wagner, aye; Wilson, aye; Schadt, aye; Vicaretti, aye; Schock, aye. Motion carried.

MOTION

Hunter made a motion for conditional final approval based on the town engineers' previous comments, payment of all fees, and the adding of the variance onto the map. Wagner second. Roll call vote: Hunter, aye; Wagner, aye; Wilson, aye; Schadt, aye; Vicaretti, aye; Schock, aye. Motion carried.

MERVI STACK - # 13-0202

Represented by herself

Owner/ Applicant Mrs. Stack wishes to re-open a restaurant, located at 87 S. Maple Ave., Town of Deerpark, Orange County, New York.

It is in the Interstate Business (IB) zone.

Section - Block - Lot = 57 - 3 - 4.

1

Application received December 5, 2012.

Mrs. Stack said that her engineer has done a new septic plan, and submitted it to the Orange County Health Department, and they have agreed on the style of the septic.

Al Fusco acknowledged that the septic was moved over onto one lot, and said that he needs a copy of those plans, however. He said that he still needs the calculations on how the septic tank got there, the amount of sewage that will be used, percolation rates, deep test pits, etc. He said that any maps he receives, must be stamped and signed by the engineer.

Mervi Stack said that the latest site plan also has the restaurant signs that are located on the property, on it.

Al Fusco said that the Orange County Health Department needs to look at the maps as well, and said that any approvals this board makes, will be subject to the receiving of the health department permit.

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Mervi Stack said that she has received comments from the Montague New Jersey Land Use Boards' last meeting, and they recommended that the patron parking be kept in Montague, and the employees' parking will be in New York. She said that Montague is leaving everything else to the Town of Deepark, and the septic to the OCDOH.

Al Fusco recommended that Mrs. Stack give herself a lease for the second parcel, the lot which will be used for parking, and it needs to be approved by the Town of Deepark Town Attorney. He said that the applicant had moved the septic field onto the one lot. He said that the septic tank is in NJ, but is on the same lot, and if the OCDOH accepts that, then he will accept it too.

Al Fusco indicated the septic configuration on the map for the board and the applicant.

Mr. Plotsky said that there are two lots that deal with the business, and there is one residential lot. He said that there has to be a right-of-way to the other portion of the lot.

Derek Wilson said that the lots need to be tied together legally, so that one cannot be sold off.

Mervi Stack said in the deeds there is a right -of- way, to be able to go back to the back residential lot.

Al Fusco said that that should be shown on the map.

Al Fusco said that the size of the sign, needs to be added to the site plan.

Mrs. Stack thanked the board.

DRAGON SPRINGS BUDDHIST INC. - # 10-0401

Represented by Ms. Lana Han, Esq. & Mr. Kaijin Liang, P.E. 754-7400
Owner/ Applicant Dragon Springs Buddhist Inc. is submitting a new site plan,,
so they can obtain their special use permit, on property located at 140 Galley Hill Rd.,
Cuddebackville, N.Y.

It is in the RR Zone.

Section –Block –Lot = 31 - 1 - 21.22

Application submitted January 2, 2013.

Ms. Han said that Kaijin Liang has met with the Town Supervisor and town board member, Dave Dean on May 20th to discuss a possible future amendment to the site plan. She said that currently there is no changes, it's only perspective and there are other factors and variables involved, so it is not absolute. She said that she is here to ask for the renewal of the special use permit, since it's almost been a year now. She referred to the town engineers' technical memo.

The town engineers' technical memo, dated July 9, 2013 reads: "We have not received any new plans or narratives outlining the proposed use beyond the previously proposed 100/100 density. The revised site plan approval includes the school and the college along with related sewage and parking proposals. The Town has expressed concern over the deterioration of Galley Hill Road, due to all the heavy equipment traffic. The Town has proposed a new local law, which was

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supplied by the NYS Association of Highway Superintendents to have projects bond the road improvements necessary, due to project deterioration of the roadway. It should be further discussed at the next Town Board meeting. The Planning Board has required Town road improvements on many other projects. We believe that any agreement for road repair should be worked out with the applicants as part of the special use permit process.”

Lana Han said, referring to the heavy trucks on Galley Hill Road, the section of the road between Route 209 and the entrance to the site, and the deterioration of Galley Hill Road, and said that this was mentioned to Kaijin Liang earlier by Mr. Fusco. She said that with a special use permit, her clients' position is that given the context of the new zoning law, and the special use permit renewal has been done every year, she would like to request a permanent special use permit, which is in the Planning boards' power to do that. She said that there are other ways that the town can enforce its' powers to oversee the construction of Dragon Springs, and with the commercialization anticipated with the Da Tang development later, there are laws that they have to comply with and conform.

She said that Dragon Springs has no new proposal for the existing site plan construction plans, no new development, and wants to keep it as a place of worship. She said that this is a meditative place, and visitors would be limited. She respectfully asked for a permanent special use permit.

Derek Wilson asked procedurally, doesn't the board need to approve the amendments to the new site plan first, before renewing the special use permit? He said that this board had never gotten a response about the 100/100 occupancy on the site. He said that the board needs a realistic occupancy number.

Lana Han said that board members have been looking on websites, and referring to the occupancy because of them. She said that there are a number of people on site, who are not permanent, and part of the time they are not there at all. She said that the number is low, for example, in the wintertime they are not there.

Derek Wilson said that even discounting construction workers, with the people that attend the university, the number still came up to over 200.

Mr. Plotsky asked if the construction workers sleep overnight there?

Kaijin Liang answered no. He said that they use a shuttle bus to bring them in and out.

Mr. Plotsky asked if the students sleep overnight?

Kaijin Liang answered no. He said that he has given the broken down numbers to the town engineer.

Al Fusco said that one of the things that the board had always had was 100/100. He said that it came forth from the calculations that there were 169 students, but some of them were there at different times, and only approximately 77 students were there at one time. He said that he had suggested that the amount of sewage handled on the site, could handle 307, that the special use and site plan be amended to 300 for sewage. He said that then he suggested that the applicants

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use the number of people as 300, and that gives the applicant room for 300, including visitors. He said that the applicant said they did not have or want more than 200, they want 100/100 people, so that means that the town will do enforcement, and the code enforcement officer will go up on the property and count, and if there are more than 200 on the premises, then it is a violation of the site plan. He said that the applicants had told him that they may "up the number" in the future, when the commercial aspect comes up. He said that the board needs to do a continuation of the special use permit, and an amendment to the existing site plan, that was previously approved. He said that the Town Board is considering a local law, whereby, if in fact, a project, whether it be the Rio project, or Dragon Springs, or construction on Route 209 or any project that uses town roads, that a bond and/or payments should be put up, to restore the roads after they had been damaged, as a result of heavy equipment and heavy trucks. He said that all along, through the years, the suggestion that the repair of Galley Hill Road be done by the applicants, based on the comments at the public hearings that were held down through the years, by the residents of Galley Hill Road. He said that it makes sense, that the special use permit, when and if it is extended, should include some provisions for the betterment of the road. He said that it sounds like the applicant is also in sync with this suggestion. He said that when the applicants start to work on the dam, then even more heavy equipment will be using the local roads. He said that the board should not look to have Galley Hill Road re-paved this year, or maybe even next year, but there needs to be irrevocable commitments, that the road will be upgraded as a result of this. He said that if the applicant wants to stay with 100/100 or if they want to go with 300, he's okay with both. He suggested that the board give a two year special use permit, from the date when the last special use permit expired, with provisions for road improvements, satisfactory to the town attorney and himself.

Derek Wilson said that looking at 100/100, he would like to see a delineation of the maximum number of construction workers there on a daily basis, who don't sleep there, as part of the occupancy that's listed on the site plan. He said that that can explain why, when the enforcement officer goes on the premises and counts more than 200 people, and then the applicants are back before this board, because of a violation. He said that he doesn't want to put the applicants in the situation where they are back before this board again, because of a number violation.

Mr. Plotsky suggested that there be a 100/100 plus 100 construction workers, then the applicants will not put themselves in a situation where they will be in violation.

Derek Wilson suggested that the applicants create a road into their property, off of Route 211.

Al Fusco said that if the applicants would consider this proposal that they use the number of 300, and then meet with the town attorney to make some satisfactory commitments for the road work, then they can come back before this board and move forward.

Mr. Plotsky said that road improvements means road repairs, just repairing the damage that the heavy equipment had done.

Ms. Han said that they will work with the town attorney, as to what is reasonable repairs to Galley Hill Road. She said that concerning a direct road off of Route 211, that property is owned by DaTang, and something will have to be worked out with them.

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Willard Schadt said that there was 100/100 before the school was involved, and now the school has been created and put on the site plan, which brings in students, in excess of the original 100/100 agreement. He said that at the last meeting he had asked the applicants if the performing arts center was part of the school, and the applicant had answered no, it is not. He said that in looking at the website for the performing arts center, and it says that it has approximately 200 members who are required to spend seven months of the year on campus, which he says, would bring in another 100. He said that the performing arts center is not even shown on the existing site plan, so the applicants have a use up there, that isn't even shown on the site plan. He said that there were auditions up there in June 2013, which meant people going up there for that.

Derek Wilson said that the applicants are saying, that with the university, they still stay within the 100/100, because the original application, back in 1998 included 99 monks, who never came.

Willard Schadt asked, are there monks up there, it's a religious place?

Ms. Han said that it's religious temple, by the 1C3 church status, and they are full time religious practitioners, and they do not have to shave their heads.

Kaijin Liang said that there are other campuses in Taiwan and California.

Willard Schadt said that he was under the impression that the huge auditorium was a rehearsal for the performing arts center. He asked how many people from the performing arts center, during the course of the year, are on this site?

Derek Wilson answered that that should be part of the breakdown of the 300. He asked the applicants to assign a number to the number of students that are on the property.

Al Fusco said that the applicants should put on the map, an anticipation breakdown of what those 300 are going to be. He said that on the website it says that there are 169 students, or some such number, but from a conversation with the applicants himself, they say that there are only 70 students there at one time. He said that if the board was able to understand that, and where the number comes from, then the 100/100/100 will work, because that's what the applicants already have facilities for, that is 307. He said that the applicants should give themselves a buffer, in case they have a large graduation, and they have 169 students there at once, then they are covered.

Derek Wilson said if the applicants have 100 full time residents, say some of them are full time practitioners, monks or not, and 70 students as part of the university and 30 teachers and staff, and 100 construction workers, then that's a blueprint, the numbers that the building inspector can make calculations for the septic, etc.

Ms. Han said that the construction workers do not live on the premises, also the teachers are not permanent residents either.

Al Fusco answered that it doesn't matter, they are using the facilities. He said that the usage that they had for that is very low, basically a full time, part time mix. He said that the number works out well, whether they are overnight visitors, or construction workers just there for the day, they all will be using the facilities.

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Ms. Han said that she and her clients will set up a meeting with Mr. Fusco and Mr. Plotsky and work out the numbers.

Dave Dean said that the maximum number, based on septic is 307 people. He said that the septic facility is the limiting factor.

Ms. Han said that falun gong practitioners are being persecuted in China, and other people want to invest in Dragon Springs.

Mr. Plotsky asked, how many persecuted people came from China and are living at Dragon Springs? He asked Ms. Han to tell the followers there to stop sending e-mails to him.

Ms. Han answered that they are not from her clients, the communist Chinese are sending them.

Al Schock said that falun gong practitioners should be good neighbors to the people on Galley Hill Road.

MOTION

Hunter made a motion to table Dragons Springs discussion for the July 24, 2013 meeting. Wilson second. Roll call vote: Hunter, aye; Wagner, aye; Vicaretti, aye; Wilson, aye; Schadt, aye; Schock, aye. Motion carried.

COMMUNICATION FROM THE TOWN ENGINEER

Al Fusco said that the Town Board got a grant from the UDC to re-do the subdivision ordinance, and he has a draft that he will be sending to the Planning Board members, and asked the members who have particular issues or suggestions, to contact him as soon as possible.

HUGUENOT MINE APPLICATION

Willard Schadt asked about the progress of the Huguenot Mine application on Big Pond Road?

Al Fusco answered that he had a meeting approximately four months ago, and an on-site walk, and there was a concern about a rattlesnake habitat there, and on adjoining parcels. He said that the applicant wanted to meet with the Town Supervisor, and himself, but that meeting never took place. He said that he has spoken with the applicants' attorney, about re-doing the Big Pond Road bridge.

APPROVAL OF MINUTES - MAY 22, 2013 AND JUNE 26, 2013

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Wilson made a motion to approve the May 22, 2013 minutes. Hunter second. Roll call vote: Hunter, aye; Wagner, aye; Vicaretti, abstain; Wilson, aye; Schadt, aye; Schock, aye.. Motion carried.

Hunter made a motion to approve the June 26, 2013 minutes. Wagner second. Roll call vote: Hunter, aye; Wagner, aye; Vicaretti, aye; Wilson, aye; Schadt, aye; Schock, aye.. Motion carried

ADJOURNMENT

Wilson made a motion to adjourn. Vicaretti second. Roll call vote: Hunter, aye; Wagner, aye; Vicaretti, aye; Wilson, aye; Schadt, aye; Schock, aye.. Motion carried

Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Barbara Brollier, secretary