

**DEERPARK PLANNING BOARD - SEPTEMBER 14, 2011 - PAGE #**

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, September 14, 2011 at 7:00 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

**BOARD MEMBERS**

Al Schock, Vice-Chairman      Theresa Santiago      Bob Vicaretti      Mike Hunter      Craig Wagner      Willard Schadt

**OTHERS**

Mr. Glen A. Plotsky, Town Attorney      Mr. Alfred A. Fusco, Jr., Town Engineer      Mr. David Dean, Town Board Liaison  
 Mr. Tim Gottlieb, Gottlieb Engineering      Ms. Lana Han, Esq., Dragon Springs      Mrs. Minzy Pan, engineer, Dragon Springs  
 Mr. Chun Feng, Architect, Dragon Springs

**THE PLEDGE OF ALLEGIANCE**

**DATANG DEVELOPMENT, LLC - PUBLIC HEARING - CONTINUED - #11-0202**

Represented by Timothy Gottlieb, Gottlieb Engineering 794-5506

Owner/ Applicant Da Tang Development wishes a lot line change and a site plan for a proposed Bed & Breakfast located on Galley Hill Rd., Cuddebackville, NY

It is in the Residential Settlement (RS) Zone      Section – Block – Lots = 22-1-5.21, 5.221 & 5.222

Application received February 8, 2011

ZBA granted use variance on May 19, 2011

**SEE ATTACHED PUBLIC HEARING RECORD**

Al Fusco said that at this point, the Board should determine what Mr. Plotsky had recommended to the Board, which way to proceed, if it's just a lot line change, or if it's going to include the bed and breakfast. He said that once that's decided, then based on what is decided then the Board would do SEQRA based on that. He said that another option, is for the Board to table it for two weeks, and in the meantime discuss it some more and talk with the applicant and consider it and make up their minds, and if they can fine, then table it for another meeting.

Mr. Plotsky said that he doesn't know if the applicant is prepared to make a determination this evening as to what way he wants to proceed.

Mr. Gottlieb said that his client has made a decision.

Mr. Plotsky answered okay, and said that the other thing, just so the Board and the public is aware, is that he asked Mr. Fusco about the bridge on Galley Hill Road, and apparently it is a county bridge, not a town bridge, so Mr. Fusco in the future will contact the county to try to determine is there are, in fact, weight limit issues, with regard to safety and whether there should be some appropriate signage put up. He said that that is about all that this Board can do. He said that right now there is one application before the Board, it's a lot line and site plan. He said that unless the applicant changes something, the Board should do SEQRA and do it on the combined application, and it's either approved or denied. He said that the Board has 62 days within to make that determination.

Mr. Gottlieb said that his client wishes to withdraw the site plan and just ask for the subdivision and lot line change approval. He said that when the proper time comes, his client will come back with the site plan.

Mr. Plotsky asked Mr. Gottlieb for clarification and just to make sure that the record is clean, "Mr. Gottlieb, you and your client were both here when I was discussing my opinion, with regard to the mechanisms by which this can be accomplished? Correct?"

Mr. Gottlieb answered, "Yes."

Mr. Plotsky said, "And at this time it is your clients' desire to withdraw that aspect of the submitted application that calls for a change of use to a bed and breakfast? Correct?"

Mr. Gottlieb answered, "Yes."

Mr. Plotsky said, "And your client at this time, is asking for the Board only to consider that portion of the application which calls for subdivision of the property, from two lots to one. Correct?"

Mr. Gottlieb answered, "Yes."

Mr. Plotsky said, "And that is based upon the application that has already been filed, as well as the approvals received from the ZBA previously? Correct?"

Mr. Gottlieb answered, "Yes."

Mr. Plotsky asked if the Board had any questions?

The Board had no questions.

Mr. Plotsky then said that at this point the Board has two aspects that they have to address, first SEQRA, lead agency; and then approval of the subdivision request for a two lot subdivision.

Al Fusco proceeded to review the SEQRA with the Board. He said that based on the short form EAF that had been submitted with the application, it is a determination of the Board on the following items. "Has there been any significant impact on any water, wildlife, or any other heritage areas?"

The Board answered "no."

Al Fusco continued; "Has there been any adverse impact in relationship to the traffic controls?"

The Board answered "no" based on the traffic study.

Al Fusco continued: "Is there any significant changes in the physical characteristics of the neighborhood, based on this subdivision?"

The Board answered "no."

Al Fusco continued: "Is there any additional impact, with a result of that issue of a negative negative?"

The Board could vote on this at the present time.

Mr. Plotsky said that if these are the Boards' determination, then they should entertain a motion to declare the Board lead agency and to render a determination of a negative declaration pursuant to SEQRA.

#### MOTION

Wagner made a motion to declare lead agency and declare a negative declaration based upon a review pursuant to SEQRA. Vicaretti second. Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Vicaretti, aye; Schadt, aye, Schock, aye.

#### MOTION

Vicaretti made a motion to approve a 2 lot subdivision for Datang Development LLC.. Wagner second. Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Vicaretti, aye; Schadt, aye, Schock, aye.

Mr. Plotsky said that the applicant now has permission to file maps, once all the fees are paid and all other aspects of the approval are complied with, and then at that juncture the applicant can make application with the Building Department, for conversion of the barn into a single family residence. He said that once all necessary forms are completed and reviewed and approved, and once any structural changes are made, or any other work on the premises is completed successfully, then the applicant would request a certificate of occupancy from the Building Department, and once they have that in hand, they will be in a position to approach the Planning Board with an application to modify from a single family residence to a bed and breakfast, as permitted by the Town Zoning. He said that essentially the Planning Board will re-do this review, and see if anything has changed, due to circumstances on the road or otherwise, and then the Board will be able to make a determination, as to the proposed site plan and special use permit.

#### DRAGON SPRINGS BUDDHIST, INC. - PUBLIC HEARING - CONTINUED - #10-0401

Represented by Ms. Lana Han, Esq. & Mr. Chun Feng, Architect 845-754-7400

Owner/ Applicant Dragon Springs Buddhist, Inc. wishes to enlarge the lake and build a new dam on property located at 140 Galley Hill Rd., Cuddebackville, N.Y.

It is an RR zone

Section – Block – Lot = 31 – 1 – 21.22

Application received April 28, 2011

#### SEE ATTACHED PUBLIC HEARING RECORD

Minzy Pan said that they are in communication with the DEC about the flooding waters and the construction site and all of the area around the lake. She said that at the next meeting, Dragon Springs will make a formal presentation, regarding the fact of any impacts to their down stream neighbors. She said briefly that based on their study, just like Mr. Fuscus' information, the lake could help to reduce the flooding effect, to the downstream neighbors. She said that when the heavy rains come, the river got flooded, because the river is narrow, and a lot of water just flows into the ditch, and it holds that water, and it goes up. The lake water, when the water comes to the lake, it's a very large surface area, and our new lake is designed, it's four feet than what the DEC requires. So, it means that it's much safer. Even when the flood comes, our lake which is rather large, will hold all of the water in it's area. And to hold the water, and when the heavy rains go away, it's going to be emptying very slowly downstream. So, it actually it helps the downstream river, and the lake is very low, when the heavy rains come. That's why, by the DEC standards, we had to built the lake, and to make it deep, the lake to hold all of the water. But anyway, the next meeting, we want to have a very formal presentation about our lakes, our new bridges. Actually, our new bridge is going to help the downstream neighbors, during a flood. Because as you can see, this here, the bridge, the culvert is all blocked by the road, so the water has to go above, here... flooding downstream. That's why we have to dig it out, for the water. And our new proposal, it is very high, like a bridge, so a lot of water comes, and it will not flood.

Chun Feng said that concerning this dam, he was told that every year the water gets higher and higher, and the water gets worse and worse, and that's everywhere, not only this location.

The Board had made a motion to hold this public hearing open until the October 12, 2011 meeting.

#### COMMUNICATION FROM THE TOWN ATTORNEY, TOWN ENGINEER, & TOWN BOARD LIAISON

Mr. Plotsky told the Board that applicant, Lou Rizzo, was before this Board about converting his ice cream store into apartments, and he said that he did do the legal research and he does have an opinion, with regard to how many units he can have. He said that he could either write Mr. Rizzo his opinion, on the Board can invite him back for another meeting.

The Board decided for Mr. Plotsky to write to Mr. Rizzo, and he can then contact the Board, if he wishes to come back.

Mr. Plotsky said that concerning the applicant, Riverside Treatment Center, that he's done the legal research, and also their attorney, Mr. Farrell had sent him some information, which he considered too. He said again, he could either write to the applicant, or the Board can invite him back for another meeting, or can refer him to the ZBA.

The Board decided for Mr. Plotsky to write to Riverside Treatment Center.

Al Fusco said that in speaking with the Town Board members, he will clarify a lot of the Zoning issues.

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Craig Wagner asked about the traffic study for Dragon Springs that was done in 2001, and now again in 2011, that the construction trucks should not be a part of that.

Mr. Plotsky agreed, and said that they are not. He said that a traffic study is, "when built out, this is what the traffic will be."

Al Fusco concurred, and said that when someone says it's only six cars, that is actually six additional cars, added to the normal traffic. He said that the Datang bed and breakfast, if it were to be built, would only have five rooms, and basically a guest would go out in the morning and come back at night, which would constitute two trips. He said that with five rooms, during peak hours, Datang is saying that there will be six cars from 8 a.m. or 9 a.m. to 4 p.m. or 5 p.m., which are the peak hours. He said that it doesn't mean that there will not be other people on the road. He said that you have to add everybody else that is on there, which may be, i.e. twenty-four cars, then with these six, it'll be thirty cars, and the impact will not even be noticed. He said that that is what the traffic engineers call the "level of service." He said that they do it at intersections, and it's based upon, how long you have to wait to get out to the road. He said that however, if 242 cars were coming out onto Route 209 at a peak hour, then it would take an enormous amount of time, and with that, a traffic light needs to be installed, which would improve the level of service, because approximately every ninety seconds, ten cars can get through. He said, concerning the Dragon Springs traffic study, they based it upon 100 workers and 100 guests, and they also estimated that there also might be 300 or 400 people during an event. He said however, to his knowledge, that has not yet happened. He said that they take that information and through that, and through other similar projects, they come up with a number, and based on that number, they're saying that you don't need a traffic light on Route 209 or Route 211. He said that one of the things that his firm did, was, that the Board had indicated that they might or might not need a traffic study, does it warrant it? He said that his workers did go out and do a traffic study, and for Datang, his results were the same as the Datang traffic study results. He said that for Dragon Springs, it was in that 200 number, just as Dragon Springs results. He said that his workers did the traffic study, just based on two days, real quick, because he was not doing a certified sampling. He said that the traffic study firm that Dragon Springs did employ, is reputable. He said that it doesn't necessarily take into consideration the construction traffic, because construction traffic is usually non-peak anyway.

Willard Schadt asked, the construction traffic that is there now is for improvements from a previous site plan, that is being built? He asked, how much construction will be involved with the current site plan, in terms of vehicles going in, with the dam, because all of the traffic that the public is talking about has nothing to do with the current application before this Board.

Al Fusco answered that based upon Dragon Springs new proposals, there's going to be no changes really, other than possibly some sight distance improvements, and a little better traffic flow coming in and out of their driveway. He said that construction traffic probably will be similar to what it is right now.

Willard Schadt asked, the change of use of the building, is not going to involve more steel or concrete or whatever?

Al Fusco answered no, to the same extent that they have now, that is, it's not going to be more than it is today.

Willard Schadt said, that they keep amending the site plan, it seems that the construction traffic is perpetual, they're always doing something.

Al Fusco agreed with Willard Schadt, and said that construction traffic is a consideration, however, most of the construction traffic is not necessarily at peak times. He said that then you're doing a traffic count, and a truck comes by, you count it. He said that his workers even mark it separately during their traffic study, by marking it "truck." He said that it counts, but usually you order concrete, they're finishing their form work up at 8 p.m. 9 p.m. and they'll pour at 9:30 p.m. or 10 p.m. He said that this time is outside of those peak hours. He said that when they're getting deliveries of steel or that type of material, they don't have workers coming and going, because the workers stay right there on site. He said that they may have a fuel truck, or a lumber truck delivering, but if a car goes by, they do count it. He said that when you do your projections, it's for the end use. He said that when his workers did their calculations, they based it on the square footage... what is the square footage that they have there, and he counted it as a "school," because that is a lot of what Dragon Springs does. He said that they have people up there dancing and playing instruments, and practicing.

Willard Schadt asked, for what they are doing now, how much longer will that construction go on?

Al Fusco answered that for what they have approved, they probably have several years.

Willard Schadt asked, hypothetically, if the Board approved the site plan, is there anyway that construction can be delayed, so there is no duplicate construction traffic? He said, so that they can finish one part of the site plan, before starting another.

Al Fusco answered that the Board can do that, but he said that he does not anticipate that they'll get started on this dam, if approved, for at least a year. He said that the entrance road will probably be built quicker, and he said that he sees that as an improvement, because if for no other reason, just for the drainage. He said that where they are right now, because of their drainage, that caused the section of the town road to wash out. He said that if their drainage is improved, it'll be a benefit. He said that he has told him that he has to replace that bridge right now, and they answered that they did not want to replace it where it is located now, but they want the bridge further up the road a little bit. He said to them, "well, show us a plan." which, he said that they did.

Al Fusco said concerning construction traffic again, that last Tuesday, they poured 200 yards of concrete, which is a lot of trucks.

Bob Vicaretti said that the traffic study should be explained to the general public, as to how it works.

Other Board members agreed.

Al Fusco said that in previous discussions about Basherkill and Deerpark Village, there were those explanations, about level of service, and how these traffic studies were done. He said that what makes it so hard for a traffic engineer, on this project, is they have study books that are related to traffic generation, i.e. a Walmart that is 50,000 square feet, there is a lot of traffic, and they can be determined, almost to the car, how many will be there. He said Dragon Springs has nothing comparable to it, so the traffic study engineers have to extrapolate the data, i.e., using the "school" for example. He said that the numbers did come out similar to his study, so he was satisfied.

Al Fusco said concerning the water, it sounds like a tremendous amount of water, but for example, the Middletown reservoir, holds one and one half billion gallons of water, which is much more water, than this lake will hold.

Al Fusco said that for years now, he has been harping on Dragon Springs for some kind of stormwater retainage, because they've just been ignoring it. He said that finally the NYSDEC demanded to have some stormwater retention, and this is the easiest way to do it, with a lake.

Al Schock said, why didn't Dragons Springs mention that this lake is for fire suppression, during their hearing.

Dave Dean said that now, there's a fine line here, because if Al Fusco tries to explain it, the same way that the Dragon Springs representative is explaining it, then, all of a sudden Mr. Fusco will look like an advocate for Dragon Springs. He said that the town engineer, Mr. Fusco has to look like he's not partial.

Al Fusco said that for aesthetics, the lake that is already on the Dragon Springs property, is plenty enough, and for fire also. He said that also, with the fire protection, one of the reasons they are building deeper, is because they're starting to get a lot of silt build-up in the existing lake now, because they had never done any stormwater protection, and so they're sucking the silt right off from the bottom. He said that they are looking at a deeper set-up, and another "draw point" off of the new one.

Al Fusco said that the NYSDEC is also saying that if the dam were to break, that there's not necessarily any loss of life and limb below it, and Dragon Springs has to re-verify that.

Glen Plotsky said that the Board cannot just deny an application, without having some form of written resolution already in their hands, to adopt.

Al Fusco said that if this Board is not ready to either deny or approve the Dragon Springs application, then they can request that because of environmental considerations, the Board can ask for an environmental impact statement.

Al Fusco said concerning the NYSDEC, that the people in the "dam division" do know what they are doing.

Al Fusco said that everything that he has asked for from Dragon Springs, they have provided to this date.

Mr. Plotsky said that the Board cannot take into consideration the fact that this applicant has been granted "tax exempt" status, or their religious practice, as reasons to deny them.

Al Fusco read from the Orange County Planning letter... "Permit Site Protection. We recommend that the Planning Board consider options for permanent protection of the remainder of this site, including the use of conservation easements, or deed restrictions." He explained that this means that the Board can take 100 acres or 50 acres, and have Dragon Springs make it into a conservation easement that will be forever wild, that it will never be built on.

Al Fusco invited Board members to go on a site visit to Dragon Springs with him, preferably no more than 3 members at a time, otherwise it would be considered a "meeting." He told them to contact him.

Glen Plotsky said that in speaking with the Dragon Springs representatives tonight, they will make any date open, for Board members to visit the site.

#### ADJOURNMENT

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

Motion carried.

Meeting adjourned at 9:55 p.m.

Respectfully submitted,

Barbara Brollier, secretary