

DEERPARK PLANNING BOARD - DECEMBER 14, 2011 - PAGE #

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, December 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, Chairman	Theresa Santiago	Mike Hunter	Craig Wagner
Willard Schadt	Derek Wilson	Bob Vicaretti	

OTHERS

Mr. Glen A. Plotsky, Town Attorney	Mr. David W. Bavoso, Town Attorney
Mr. Alfred A. Fusco, Jr., Town Engineer	Mr. David Dean, Town Board Liaison
Mr. Ed Ward, Applicant	Mr. Timothy Gottlieb, P.E.
Mr. John Fuller, Civil Engineer	Mr. Jeff Clune, Applicant

THE PLEDGE OF ALLEGIANCE**McCALLISKEY & WARD - PUBLIC HEARING - # 06-0601**

Represented by Ed Ward 283-9505

Owners/ Applicants Ed Ward & Jim McCalliskey wish a 3 lot subdivision on property located on Brandt Rd., Westbrookville, N.Y.

It is an RR Zone

Section – Block – Lot = 7 – 1 – 37

Application received June 4, 2007.

SEE ATTACHED PUBLIC HEARING RECORD

Willard Schadt asked about the driveway, if there's a maintenance agreement?

Mr. Ward answered that it is a split driveway, and the property line goes right up the center. He said it's like two separate, parallel driveways, so no agreement has to be drawn up.

Al Fusco referred to his technical memo, dated December 14, 2011, where changes were requested by his office, and he said that the applicant did make those changes. He said that the only thing remaining is some dedication of the right-of-way to the Town, which has to be done before final approval is given. He said that it should be a 25 feet right-of-way, which is already included on the site plan, and the applicant just has to follow up with that, with a deed.

Willard Schadt clarified by saying that for lot #3, the existing driveway, the existing curb cut is going to stay there.

Mr. Ward concurred with Mr. Schadt, and said that where it comes out onto Brandt Road, it remains the same. He said that there is a driveway analysis on the site plan.

The Chairman read over the questions on the SEQR form, Part I. The Board answered "no" to all of the questions.

MOTION

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

MOTION

Wilson made a motion for conditional final approval, subject to the dedication of the right-of-way and payment of all fees. Santiago second. Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Vicaretti, aye; Schadt, aye, Wilson aye; Schock, aye. Motion carried.

MARTEL SUBDIVISION- #03-0501

Represented by Mr. Timothy Gottlieb, Gottlieb Engineering 794-5506
 Owner/ Applicant Martel Holdings LLC wishes a 16 lot subdivision on
 property located off of Wilson Rd., and Hawk Mountain Dr., Sparrowbush, N.Y.
 It is in the RRC Zone. Section – Block – Lot = 21 – 1 – 62.32
 Application submitted October 11, 2007.
 Applicant is seeking an amended site plan.
 This Board granted a 6 month extension in June 2011.

MOTION

Wilson made a motion to grant a six month extension for the Martel conditional approval. Hunter second.
 Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Vicaretti, aye; Schadt, aye, Wilson aye; Schock,
 aye. Motion carried

The Board determined that the six month extension will run from December 30, 2011 through June 30, 2012.

TRI-COUNTY PROPERTIES - (DEERPARK OIL) - # 09-0101

Represented by Jeff Clune & John Fuller, Civil Engineer 856-1536
 Owner/ Applicant Jeff Clune wishes a Site Plan Approval for 2-story commercial
 building (offices and apartments), located on Darraugh Lane, Sparrowbush, N.Y.
 It is an HMU Zone Section - Block - Lot = 44 -2 - 4
 Application submitted December 6, 2011.

Mr. Fuller said that the proposed project is directly across from where the propane tanks were installed on this
 Deerpark Oil property. He said that when the applicant was before this Board prior, there were comments
 from the Sparrowbush Fire Department, and well as Board members, for the applicant to provide on-site water
 storage, in the event of a fire, as a result of the propane installation. He said that the applicant had then
 acquired a one acre lot, which is directly across Darraugh Lane, at the entrance to the Deerpark Oil property.
 He said that the applicant had acquired that one acre lot specifically for the purpose of the underground water
 storage tank, for the Fire Department to have available water. He said that the water tank is approximately
 30,000 gallons, and is shown on the site plan, at the edge of the parking area. He said that the applicant would
 like to expand this into a site plan development, for purposes of putting in a small office building, with two
 residential apartments above the office space.

Derek Wilson said that the Town Engineer has a comment about the necessity of an area variance for this
 project.

John Fuller answered that this is a pre-existing lot, and it's a lot area issue, it's not a set-back issue.

Derek Wilson said he agreed, but said that there is no existing use on the property yet, which is different, than if
 there were already a pre-existing building on the property. He said, in other words, if there is no use on the lot
 yet, procedurally, to put a new commercial use on it, to meet the minimum requirements for the lot area for that
 use, he said that he believes that an area variance may be necessary. He deferred his question to the Town
 Attorney.

Mr. Plotsky answered that this is a pre-existing lot, and the lot is not defined or established, based upon the use,
 so this is not something that the applicant has created. He said that as he understands, the property behind in
 the problematic direction, has railroad tracks on it, so the applicant cannot purchase additional property to cure
 the difficulty. He said that given the circumstances, he believes that the Planning Board can essential waive
 that difficulty, finding that it is a hardship to the applicant, which is really not curable. He said that if this were
 a situation where the lot that is defined, based upon the use, then yes, he would agree with Derek Wilson, that
 the applicant can either try to find a different use that would not require a variance, or go before the ZBA for a
 variance. He said however, that this is a situation where anybody attempting to use this lot is faced with the
 120' versus the 200' requirement. He said that this is not a subdivision that the Board is being asked to
 approve.

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John Fuller said that the Town Zoning does not dictate lot depth as a function of a use. He said that whether it's residential or commercial, the lot depth remains the same, that is, the requirement in the zone. He said that therefore, it's a pre-existing lot and the applicant cannot change the lot depth.

Derek Wilson said that the section in the Zoning Law, on non-conforming lots, actually applies to this, because the applicant is putting a commercial use in something that is not there already, in an undersized lot.

Al Fusco answered by saying that the lot is not undersized, the lot is okay, it's the depth.

Willard Schadt asked, are all of the setbacks met here?

John Fuller referred to the Zoning Law, Section 6.5, page 73 "Use of existing non-conforming lots of record. A structure may be erected on any existing lot of record, providing the owner does not own adjoining property, and no front yard is reduced in size, and no side yard is reduced, to less than 50%, of the requirement for the district, in which it is located, or 20 feet, whichever is greater..." He said that this says in essence, that as long as the applicant complies with all of the setbacks, he can build on an existing non-conforming lot, and yes, it does comply with the setbacks. He said that this will comply with the setbacks for the zone, but it's just that the lot depth, which is pre-existing, cannot be met.

Mr. Plotsky said that based upon Section 6.5 of the Zoning Law, because the applicant does not own any adjoining pieces of land, that can be used to change the dynamic, and therefore, make it fit, and presuming that it's been verified that the front yard is of the appropriate size, and that no side yard is less than 50% of the requirement, than the applicant can pursue this.

Al Fusco referred to his technical memo, dated December 14, 2011. He said that on the detail for the stabilized road, the applicant needs to just show the stone, which is labeled in the verbiage, but it still needs to be shown on the plan, which makes it easier for the contractor. He said that he drove by the property, and it has good site distance. He said that there are "planting notes" on the plan, but the applicant also has to show some plantings on the map. He said that the drawings were set for construction, which is fine, but the applicant needs to show a little bit more. He said that a "one-call" note needs to be added, just because he likes to see it on there, with all of the problems of digging without notification. He said that the perc rate looks good, as he had to do some deep pit tests, and will have to do an inspection at some point. He said that the typical Eljen Septic Trench detail should show 12" minimum and maximum cover. He said that the expansion area is noted on the map as 100%, but his opinion is that it did not seem that big, so he asked for it to be scaled. He told the applicants' engineer to check his lot numbers, as he thinks that they may be switched.

Al Fusco asked if this lot is 500' within the State Highway?

Mr. Clune answered no, that the front parcel is approximately 900' deep already.

Al Fusco said that that needs to be verified then.

Mr. Plotsky told Mr. Fuller that a "239 review" needs to be made on this application, because it will protect his client, just in case someone in the community says, "the canal is right there, it has historical value," or if someone questions the distance from the road, etc.

Al Fusco agreed, and said that a copy of the site plan should be sent to Orange County Planning Department.

Derek Wilson asked the applicant about the three propane tanks that he has installed?

Mr. Clune answered that they are three 30,000 gallon tanks.

Derek Wilson then asked about the tanks that he saw laying down on the property?

Mr. Clune answered that the company that he had purchased the tanks from, had to get 9 or 10 tanks out of Middletown, New York in one shot, and they needed a layover spot for them, for a couple of months.

Derek Wilson asked if these tanks are part of the applicants' installation?

Mr. Clune answered no, the company just had to get them out, and delivered them there.

MOTION

Santiago made a motion to schedule a public hearing for Wednesday, January 25, 2012. Wilson second. Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Vicaretti, aye; Schadt, aye, Wilson aye; Schock, aye. Motion carried.

MOTION

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

Al Fusco said that escrow accounts need to be set up.

John Fuller answered that there was already two checks sent to the Supervisors' office, for both the Town Engineers' and the Town Attorneys' escrow accounts.

COMMUNICATION FROM THE CHAIR

The Board decided to not hold their regularly scheduled, second meeting of the month, which would've been December 28, 2011.

The next Planning Board meeting will be January 11, 2012.

COMMUNICATION FROM THE TOWN ATTORNEY

Mr. Plotsky informed the Board that starting in January 2012, his colleague, David Bavoso will be coming to the Planning Board meetings. He said that if Mr. Bavoso has a conflict, or if there are issues of litigation, then he will attend, but for the most part

Mr. Bavoso will be representing the Planning Board.

ADJOURNMENT

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

Meeting adjourned at 7:45 p.m.

Respectfully submitted,

Barbara Brollier, secretary