

**DEERPARK PLANNING BOARD - JULY 13, 2011 - PAGE #**

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, July 13, 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     Dan Loeb     Theresa Santiago     Mike Hunter     Willard Schadt     Bob Vicaretti     Derek Wilson

**OTHERS**

Mr. Glen A. Plotsky, Town Attorney	Mr. Alfred A. Fusco, III., Town Engineer	Mr. David Dean, Town Board Liaison
Mr. Karl Brabenec, Town Supervisor	Mr. Timothy Gottlieb, Gottlieb Engineering	Ms. Lana Han, Esq.
Mr. Chun Feng, Architect	Mr. Kaijin, Liang, PE.	Mrs. Minzy Pan, P.E.
Mr. John Fuller, Civil Engineer	Mr. Harry Davis, Applicant	Mr. Dominick Alfieri, Applicant

**THE PLEDGE OF ALLEGIANCE**

**DA TANG DEVELOPMENT, LLC - PUBLIC HEARING - #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

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**

Mr. Gottlieb presented the proof of certified mailings to the secretary

Mr. Gottlieb said that he will look into the use of the building, and address whatever other comments were brought up this evening.

The Board had decided to leave this public hearing open, to be continued on the July 27th meeting date.

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

Represented by Ms. Lana Han, Esq. & Mr. Chun Feng, Architect & Mr. Kaijin Liang, PE 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**

Lana Han had presented the proof of certified mailings to the secretary.

The Board did receive comments from Orange County Department of Planning for this application.

The Board decided to leave this public hearing open, to be continued on the July 27th meeting date.

**NANCY GIBSON SUBDIVISION - #11-0301**

Represented by John Fuller, Civil Engineer

Owner/ Applicant Nancy Gibson wishes a 2 lot subdivision on property located at 200 Peenpack Trail, Huguenot, N.Y.

It is an RR Zone.

Section – Block – Lot = 37 – 1 – 14.1

Application received March 14, 2011

John Fuller said that for this application, there is essentially only two remaining technical items that have to be addressed with the town engineers' office. He said that one, is the joint soil inspection was done and has passed, and the other was clarification on a note that the Board had asked to be put on the plan. He read that note: "Lot #1 shall not be buildable until the following occurs: 1) if a residence is proposed, a stream crossing permit from the NYSDEC shall be obtained, or 2) if any development is proposed, that would be non-residential, approval shall be obtained from the Town of Deerpark Planning Board." He said that that means that the applicant would have to come before this Board for site plan review and approval.

Al Fusco said that his office is satisfied with these submissions.

**MOTION**

Wilson made a motion for final approval for the Nancy Gibson 2 lot subdivision, subject to payment of all fees. Hunter second. Roll call vote: Santiago, aye; Loeb, aye; Hunter, aye; Vicaretti, aye; Schadt, aye; Wilson, aye, Schock, aye.. Motion carried.

**HARRY DAVIS - QUESTION FOR THE BOARD**

Mr. Davis was not on the agenda, however, the Board agreed to hear him.

John Fuller said that this applicant was requested by the Building Department to be heard tonight. He said that Dominick Alfieri and himself are not a part of this request.

Harry Davis said that he and his wife already own a B&B in Barryville, N.Y., and would like to lease a space in the Hub building, that is owned by Dominick Alfieri, for a proposed juice bar/ supplement bar. He said that they wanted to just get the Boards' advice.

Dominick Alfieri said that if this juice bar does come to fruition, it will be located on the first floor.

Al Fuscus said that the issue with the Building Department is that it is a change of use, as New York State Code defines a juice bar as an assembly. He said that parking will have to be added.

Harry Davis asked if he could prepare the items on site, or does he have to prepare them off site and transport them to the facility?

Dan Loeb asked about the supplements, are they in drinks or tablet form?

Harry Davis answered that they are pre-packaged supplements that are available in a gym type setting.

Dan Loeb asked, is the assembly designation dictated by what the majority of the premises is devoted to, or just a partial? And if it's partial, would that make it the dominant designation? He said that in other words, Harry Davis' business is devoted to making protein powders and supplements, and only, say, 10% is for juice.

Al Fusco answered that the New York State Code reads that if the product is made off site, and you just bring it onto the premises in a container, than that would be a business, mercantile, that's already approved there.

Glen Plotsky clarified by saying that if Mr. Davis makes the product on the premises, it'll be a problem and if customers sit there and drink it, then it'll be a problem. He said, however, if a customer just comes in and purchases what he wants, and pays for it, and then immediately leaves, then it'll not be a problem.

Al Fusco said that the size of this proposed operation would not be a problem, pertaining to egress and parking. He said that the business will have to go through the Planning Board process for a change of use, however.

Harry Davis said that parking will not be a problem, because people will already be parked there to use the gym, so no additional cars would be added.

Mr. Plotsky said that the parking restrictions are set by size and use, so even though the 150 people a day that will be going into the juice bar are also going to be, at a different time, during that same day, upstairs in Planet Fitness, the Law still requires that parking be provided for both businesses. He said that the parking formula for the mercantile use is different from the juice bar use. He said however, if people do not sit there and drink their juice, but just purchase it and walk out, that would not be considered an assembly, but would only be considered mercantile.

John Fuller said that the first issue with this site is going to be parking... so that any change like the mercantile, would figure into the parking calculations. He said that the second issue would be the septic, because an assembly would have a higher intensive use than a retail use, relative to the septic use. He said that the public hearing for The Hub is set for August 10th, and he will look at this proposal and include it in the new site plan for the public hearing.

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Mr. Plotsky said that if Dominick Alfieri wants to do mercantile with possible assembly, then you're talking about essentially proposing the maximum use permitted. He said that you can almost always do less, without having to come back, but it's when you do more, you would have to come back before this Board.

Al Fusco said that the Building Department is still involved and issues building permits and certificates of occupancy, after the Planning Board process. Dominick Alfieri informed the Board that he did reach a lease agreement with adjoining landowner Morris Rizkallah for 30 years, to alleviate the parking situation.

The Board asked for a copy of that lease to be brought to the public hearing.

Dan Loeb asked about the water treatment at this facility?

John Fuller answered that he is measuring the water right now, and possibly it could have an impact, if he has to go to the backwash system. He said that he had additional water testing done, and will get those results to the Board at the public hearing.

**COMMUNICATION FROM THE BOARD & TOWN BOARD LIAISON**

Derek Wilson said that any applicant coming before this Board should be posted on the agenda, because of problems in the past.

Glen Plotsky added that the Board is not to take any action, except possibly scheduling the applicant for another meeting.

Derek Wilson asked the secretary if she had compiled a list of open applications that have been inactive for 6 months or longer.

The secretary answered that she will get that list.

David Dean asked what is the last building that Dragon Springs had built?

Al Fusco answered that there is a building up there, that is equivalent to a small Carnegie Hall, and they had received a building permit for it in July 2010. He said that in this "cafeteria building" they have Planning Board approval for a cafeteria, library, gymnasium with a basketball court, bleachers, locker rooms, and one swimming pool. He said that on the site plan there is a retaining wall, and on that retaining wall is says "covered driveway" and "parking deck." He questioned the applicants, saying that he doesn't think that this was approved. He said that he was invited up onto the property, and he said that the cafeteria part of the approved building is completed. He said that the library is completed also. He said that this retaining wall structure and the footings and the columns for a 3 tiered parking garage had been put in already, and he told the applicants that they had to stop that work. He said that the Building Inspector was with him on the property, and told the applicants that they had to get updated plans, that is, electrical, full structural plans, mechanical plans, full architectural plans to him, because this is a change. He said that he told him that they have to go back before the Planning Board, because this is a change of use.

Derek Wilson asked, who did the footing inspections then?

Al Fusco answered no one. He said that Dragon Springs already does have their own certified engineers that can sign off on this plans, saying that everything is in order, a sort of self inspection. He said that the Building Inspector can accept these self inspection sign offs, if he deems it correct.

Dan Loeb said that the two maps that he has are different, even though they both have the same date.

Al Fusco showed Dan Loeb the differences on the maps, and indicated the different features, such as the parking lot, and others.

Willard Schadt asked if the Board members can make an on site walk, and asked the other members for their input. The other Board members expressed that they too would like to have a site visit. Al Fusco said that he will be speaking with the Dragon Springs representatives tomorrow, and will find out when they can accommodate the Board.

Glen Plotsky said that the biggest issue would be finding a time when all of the Board members can go up onto the property, and their visit will have to be published in the newspaper.

#### ADJOURNMENT

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

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Motion carried.

Meeting adjourned at 9:40 p.m.

Respectfully submitted,

Barbara Brollier, Secretary