

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, April 20, 2017 at 7:30 pm at the Deerpark Town Hall, 420 US Route 209, Huguenot, NY. The following were present:

BOARD MEMBERS PRESENT:

Daniel Witt-Chairman
Lee Cornell

James Harrington- Vice Chairman
Cheryl Greene

BOARD MEMBER ABSENT:

Jane Lord

OTHERS PRESENT:

Glen Plotsky, Town Attorney

Meeting brought to order at 7:31 pm.

Pledge of Allegiance

APPROVAL OF MARCH 16, 2017 MINUTES-

Motion to Approve March 16, 2017 Minutes.

Motion made by Lee Cornell, 2ND by James Harrington to Approve March 16, 2017 Regular Meeting Minutes.

Vote 4 Ayes: James Harrington, Daniel Witt, Lee Cornell, Cheryl Greene.

MOTION CARRIED

EXECUTIVE SESSION –

Motion to enter Executive Session.

Motion made by James Harrington, 2ND by Lee Cornell to close Regular Session and enter into Executive Session and invite Town Counsel, Glen Plotsky.

Vote 4 Ayes: James Harrington, Daniel Witt, Lee Cornell, Cheryl Greene.

MOTION CARRIED

Motion to exit Executive Session.

Motion made by James Harrington, 2ND by Cheryl Greene to Re-enter Regular Session.

Vote 4 Ayes: James Harrington, Daniel Witt, Lee Cornell, Cheryl Greene.

MOTION CARRIED

DRAGON SPRINGS – Area Variances – Appeal Number 16-002 – Discussion –

Rick Golden – Representative for Applicant from Burke, Miele & Golden, LLP

Jonathon Lee – Representative for Dragon Springs

Town Attorney stated that through many Discussions, Deliberations and Executive Sessions a proposed resolution has been written, he then outlined the Variances proposed by the applicant:

- A. Height Variance for a Perimeter Fence in the amount of 8ft where heights of 4ft and 6ft are permitted;
- B. Driveway Width Variance in the amount of 100ft where a width of 50ft is permitted;
- C. Driveway Grade Variance in the amount of -5% where -2% grade is permitted;
- D. Height Variance for an Internal Fence in the amount of 7½ft and 9ft where heights of 4ft or 6ft are permitted;
- E. Bridge Width Variance in the amount of 2in and 2ft2in from the previously approved width of approximately 13ft was permitted.

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DRAGON SPRINGS – Area Variances – Appeal Number 16-002 – Discussion – continued –

Mr. Plotsky continued that after the closing the Public Hearing the Applicant submitted modified requests for variances based on comments made during the public hearings. The new Variances requests are as follows:

- A. Height Variance for Perimeter Fence has been withdrawn.
- B. Driveway Width Variance in the amount of 51ft with permeable driveway pavers adjacent thereto for a distance of 16ft and 17ft on either side of the driveway where 50ft is permitted;
- C. Driveway Grade Variance in the amount of -2% for 15ft± with an elevation of Galley Hill at the applicant's expense of between 1ft and 2ft and subject to the direction and conditions imposed by the Town of Deerpark Highway Superintendent, where -2% grade is permitted;
- D. Height Variance for Interior Fence in the amount of 7½ft and 9ft where 4ft or 6ft are permitted;
- E. Bridge Width Variance in the amount of 2in and 2ft2in from the previously approved width of approximately 13ft was permitted.

Town Attorney further stated that subsequent to the Applicant's stating their intention to submit a modified request for variances, the public was given a 14 day period to provide written comments in response to the Applicant's modified variance requests. He went on to say that Town of Deerpark Zoning Board of Appeals did not re-open Public Comment or the Public Hearing but both the Applicant and Public had opportunities to provide additional written response to the Modified Proposal Request. Mr. Plotsky also stated it has been found that the difficulty is self-created because the Applicant is requesting to construct or has already constructed structures that do not comply with Town of Deerpark Zoning Law, further as to Driveway Grade and Interior Fence Variances it has been a general rule of the Zoning Board of Appeals that a variance in excess of 25% it should be denied unless the applicant shows a compelling case to support the request. The benefit to the Town from the probable widening and improvement of Galley Hill Rd and the invisibility of the interior fence to anyone not located on the property, both support the property owner's request. The Applicant stated use and submission that the provisions of RLUIPA (Religious Land Use and Institutionalized Persons Act) must be considered. He continued that the benefit to the Applicant if Variances are granted outweighs the potential detriment to the Health, Safety and Welfare of the Neighborhood or Community. Furthermore permitting the variances and Applicant's use of the property will permit unbridled religious use of the Applicant's property, improve the roadway, limit visual impacts and potentially increase future tourism within Town of Deerpark. Applicant must also comply with New York State DEC, Orange County and Town of Deerpark regulations. Additionally the Applicant is proposing to continue use of a resort like property as a religious retreat/educational and conference center so there is no detriment or undesirable change to the character of the community, along with limited negative affect to the environment or physical conditions in the surrounding areas.

VOTE ON THE 5 VARIANCES ARE AS FOLLOWS:

- A. Height Variance Perimeter Fence is Denied without prejudice to reapply as withdrawn:

Motion to Deny Variance request for Dragon Springs Perimeter Fence.

Motion made by James Harrington, 2ND by Cheryl Greene to deny without prejudice to reapply as withdrawn.

Vote 4 Ayes: James Harrington, Daniel Witt, Lee Cornell, Cheryl Greene.

MOTION CARRIED

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DRAGON SPRINGS – Area Variances – Appeal Number 16-002 – Discussion – continued –

VOTE ON THE 5 VARIANCES ARE AS FOLLOWS - continued:

- B. Driveway Width Variance of 51ft, conditioned upon the applicant being permitted to install permeable driveway pavers adjacent thereto for a distance of 16ft and 17ft on either side of the 51ft Driveway, it is a 1ft or 2% Variance:

Motion to Approve Variance request for Dragon Springs Driveway Width.

Motion made by James Harrington, 2ND by Lee Cornell to grant conditioned upon the Applicant being permitted to install permeable driveway pavers adjacent thereto for a distance of 16ft and 17ft on either side of the 51ft Driveway.

Vote 3 Ayes: Cheryl Greene, Daniel Witt, Lee Cornell. **1 Nay:** James Harrington.

3-1 Vote MOTION CARRIED

- C. Driveway Grade Variance of -2% for only 15ft±, conditioned upon the Applicant providing funds such that the Town can contract, via appropriate bidding processes, to elevate a portion of Galley Hill Rd, in the vicinity of the driveway entrance at the applicant's expense, to add an additional height of between 1ft to 2ft and where the construction of the road elevation is subject to the direction and conditions imposed by the Town of Deerpark Highway Superintendent. The Variance is 10ft± or 40% Variance:

Motion to Approve Variance request for Dragon Springs Driveway Grade.

Motion made by James Harrington, 2ND by Cheryl Greene to grant conditioned the Applicant providing funds such that the Town can contract, via appropriate bidding processes, to elevate a portion of Galley Hill Rd, in the vicinity of the driveway entrance at the applicant's expense, to add an additional height of between 1ft and 2ft and where the construction of the road elevation is subject to the direction and conditions imposed by the Town of Deerpark Highway Superintendent.

Vote 3 Ayes: Cheryl Greene, Daniel Witt, Lee Cornell. **1 Nay:** James Harrington.

3-1 Vote MOTION CARRIED

- D. Interior Fence Variance permitting an Interior Fence of between 7½ ft and 9ft, it is between 3½ ft and 5ft or between 25% and 111% variance depending on topography:

Motion to Approve Variance request for Dragon Springs Interior Fence.

Motion made by James Harrington, 2ND by Cheryl Greene to grant Interior Fence of between 7½ ft and 9ft.

Vote 4 Ayes: James Harrington, Daniel Witt, Lee Cornell, Cheryl Greene.

MOTION CARRIED

- E. Bridge Width Variance between 2in and 2ft2in from previously approved width of approximately 13ft, it is between 1.3% and 15.4%:

Motion to Approve Variance request for Dragon Springs for Bridge Width Variance.

Motion made by James Harrington, 2ND by Lee Cornell to grant between 2in and 2ft2in from previously approved width of approximately 13ft.

Vote 4 Ayes: James Harrington, Daniel Witt, Lee Cornell, Cheryl Greene.

MOTION CARRIED

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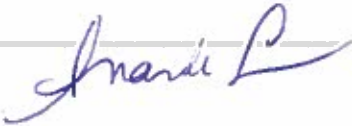
Motion to Adjourn Meeting.

Motion made by James Harrington, 2ND by Cheryl Greene, to Adjourn April 20, 2017 Regular Meeting at 8:27 p.m.

Vote 4 Ayes: James Harrington, Daniel Witt, Lee Cornell, Cheryl Greene.

MOTION CARRIED

Respectfully Submitted By,



Amanda Gorr, Zoning Board of Appeals Secretary

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