

**DEERPARK ZONING BOARD OF APPEALS = MAY 16, 2013 - PAGE #**  
**PUBLIC HEARING - SSS REALTY, LLC**

The Deerpark Zoning Board of Appeals met for a public hearing on Thursday, May 16, 2013 at 7:51p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

**ZONING BOARD OF APPEALS MEMBERS**

Gerald Cedrone -Chairman                      Martin D. Smith, Jr.                      Jim Harrington                      Jane Lord                      Dan Witt

**OTHERS**

Mr. Glen A Plotsky, Town Attorney                      Mr. John Fuller, Civil Engineer

The secretary read the public hearing notice: "Notice is hereby given of a Public Hearing to be held by the Zoning Board of Appeals of the Town of Deerpark, Orange County, New York, pursuant to Article 7 f the Town of Deerpark Zoning Law on the application of SSS Realty, LLC for an area variance. The application affects the following premises: Record Owner: SSS Realty, LLC, Tax Map Designation: Section 47, Block 3, Lot 4.2; Zone Designation: HMU. Located at 1 Main Street, Town of Deerpark, Orange County, New York. Information on this application is on file with the Town Clerk, Town Hall, Route 209, Huguenot, New York. The Hearing shall take place at 7:30 P.M. on the 16th day of May, 2013 at Deerpark Town Hall, located on Route 209, Town of Deerpark, Orange County, New York, or as soon thereafter as practicable. All parties wishing to be heard shall be heard at that time."

John Fuller: Good evening to the board and the public here tonight. My name is John Fuller, I'm a civil engineer representing the applicant before the board and the public tonight. Just for the record, I have submitted the certified mailings for this application to the secretary tonight. Just a quick introduction of the project. I represent the applicant of this property, who has just purchased the property within the last six months. the property which is commonly known as the old Alexander hotel property. He has a desire to renovate the existing building, and make it into a multi-family. We preliminarily presented the concept to the planning board, at which time it was identified that variances would be necessary, for the property,, because of the length of time it has been vacant, with that structure there in accordance with Article 6 of the Zoning Law. So, the application before the board and the public tonight, is to request area variances, specifically a front yard and side yard variance, in order to re-occupy the property in the current structure that is there today. There will be no deviation proposed from the existing setbacks, an approval would grant a re-validation of the existing setbacks as they exist today. That's an introduction, in general, it's a side yard, front yard variance to re-occupy the facility, which has been vacant for more than a year, which is only what the Code allows for. With that the board can proceed with discussion.

Martin Smith: Didn't he get a variance on this a while back?

John Fuller: Not to my knowledge. The one thing I do know about the property, it had site plan approval for various concepts, both in 2003 and 2004.

Martin Smith: It was before us, before.

John Fuller: That was a different applicant,

Gerald Cedrone: It came before us before for a bed and breakfast, but I don't remember the time.

John Fuller: I mean, a multi-family is a permitted use under the special use in the Zoning, which is the HMU zone.. So, the intent of the applicant before the planning board, is, that it is what the zoning allows, but the difficulty is, that the property has been vacant for so long, there's a termination of any variances that existed. So, a request before you is to grant what is already there, which is the front yard and side yard setbacks, the way they've always existed for the life of the property.

Dan Witt: I understand, you're not asking for what was there before, you're asking for variances, because the building has been vacant for a long amount of time, and if it had not been, we wouldn't be having this conversation.

John Fuller: Correct. There's a provision in Article 6 of the zoning law, that states that if a property is vacated, or determined to be abandoned for any length of time, and what we commonly call grand-fathered, is not used here..

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Jane Lord: How old is the building?

John Fuller: Gosh, I don't know off the top of my head, I mean, it dates back, I think to the 1800's.

Jane Lord: Well, it has to date back to horse and carriage days, just from how it's set up on the street.

Glen Plotsky: John, what is the side yard requirement and what do you have?

John Fuller: Okay, the front yard requirement is 35 feet, in the current zoning. This is 6.5 feet off of the front yard, and again that is the existing setback, as it is today. The side yard requires 35 feet and the property, and it is 8.2 feet off of the side yard.

Dan Witt: Aren't there out-croppings or some rocks or something behind the building there?

John Fuller: One of my arguments before the planning board, which I will use before this board as well, is that due to the nature of the property, behind the building it slopes up extremely fast. So, any type of development of this property, necessitates a structure beyond this front part of the property, which is common sense.

Jim Harrington: Then it goes back into the hill?

John Fuller: It could, but it would involve a whole demolition of the structure, and it would be extensive amount of earth moving work in order to accomplish that.

Jane Lord: He doesn't want to remove the building.

John Fuller: Well, we definitely don't want to remove the building, and the idea here is for the applicant to renovate and re-occupy the building.

Jane Lord: How many families does he want to have in there?

John Fuller: He's looking to do about six, and no more than that.

Jane Lord: I've been in the building when it was an antique shop, a flea market, and how many rooms are there?

John Fuller: I don't know the exact number, but there is several, probably about 8 to 10, I don't know the exact number.

Jane Lord: How big do they expect the six apartments to be?

John Fuller: Well, based on the footprint of the building, and the nature of the second and third floor, each apartment would be about 900 to 1,000 square feet, and the building has a footprint of about 2,000 square feet, so the idea is that there would be two apartments on the first floor, two apartments on the second floor and two apartments on the third floor. Yeah, 900 to 1,000 square feet, I'm just giving you a range, I don't know the exact number off the top of my head. The idea would be to bring everything up to the current code, while preserving the nature of the building, and we would put in a sprinkler system, because that is what the Code requires and other fire prevention measures, life-saving measures.

Jane Lord: What is the quality of the building?

John Fuller: That I don't know, I really can't speak to the quality. I think that the expectation is a good quality, you know it is an older structure and I think they are looking to play into a rental market, and I don't know if I can speak to that, in this point in time.

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Glen Plotsky: Just, so I'm clear John, on the one side you have 8.2 feet, and on the other side you have substantially more than 35 feet, and the rear yard you have no issues as well.

John Fuller: No problems to the rear and no problems to the one side. It's just the left side that faces the street and the front of the building, because of where it sits today.

Glen Plotsky: Lot size is no issue?

John Fuller: No, lot size is no issue at all. The difficulty even to build on the lot at a later time, if for some reason they demo this, even getting a driveway up to the back part of the property would be very difficult. In essence, the only buildable area on this parcel, is where it sits.

Glen Plotsky: And that's because of the topography?

John Fuller: Topography yes. In fact the grade, it raises from ... the first floor is about 504 and the back part of the parcel is about 540, so you can imagine there's almost 30 plus feet of rise from the front part of the parcel going to the back part of the parcel, which would make a driveway almost impossible, even with switchbacks, it would make it very difficult to get a driveway on this parcel. Other than a septic, really the back part of the parcel has no usefulness. The septic is currently uphill. And the back part of the parcel has no rights of access or access to it from any public right-of-ways. So, basically the back part of the parcel is no buildable, and the only buildable part is the front part of the parcel, which is where the building site.

Martin Smith: Okay, would you continue with these five items?

John Fuller: Yes, the first one is, the benefit to the applicant, if the variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood and community. My response to that is, that the variances we are requesting are for an existing, vacant building, that would be renovated and updated, and would be no significant detriment to the health, safety and welfare, if the variance is granted.

Jim Harrington: Isn't it a safety issue?

Jane Lord: No, it isn't. The road goes like this, it doesn't go like this. When you go into Sparrowbush, it's here and you sort of go here.

John Fuller: It's one of the older structures in that part of Sparrowbush. All of the structures, if you go down Main Street there, down toward the firehouse, all sit on the road, I mean, there isn't a dwelling there that doesn't sit on the road. Gamo's Store sits on the road, and all of the little shops sit on the other side of the road as well. So, it was within the character of the neighborhood, as to what was pre-existing there. Number two, that no undesirable change will be produced in the character of the neighborhood, or any detriment to nearby properties created, by the granting of the variance. Again, I say again that we are asking for what is already existing, we're not looking to worsen or make worse any of the existing variances, as they exist. And as I just mentioned a moment ago, it is in keeping within the character of the neighborhood, that whole stretch of Main Street in Sparrowbush, all of the dwellings and various structures sit within several feet of road, and I think that that is very much within the character of the neighborhood. Number three, whether the variance requested is substantial. Based purely on percentages, yes, it would be substantial variances, but again, I would ask the board to consider the fact that it is a pre-existing structure that has always sat at its' current location, and we're not asking for the variances to be any worse than they already are, relative to where they sit, against the road, in the side yard setback. Number four, whether there is any other feasible method by which the applicant may obtain the benefits sought, from the area variance, except by granting said area variance. Based on the intent of the property, there is really no other way to accomplish these variances, short of tearing the building down and pushing it back. But even with that, I think it creates other complications, I'm not sure, maybe the side yard will be satisfied but we will still be challenged with the front yard setback, even if they tried to build a new structure, for the back into the slope, just because it rises so quickly, off of the road. Which is what I've stipulated before. Number five, whether the proposed variance would have any adverse impact or effect on the physical or environmental conditions of the neighborhood or district. Again, as I've indicated, I think it is being consistent with what is already in that part of town, in that neighborhood, as far as the

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way that the existing dwellings sit, in relationship to the road, it harkens back to a different time and history of the town. And so I don't think that renovating the building would change the character of the neighborhood. So, we would ask the board to consider the fact that it is an existing structure, and has a little bit of history in that part of our town, and give the applicant the opportunity to renovate and continue to use the structure. Number six, whether the alleged difficulty was self-created, which consideration should be relevant to the determination of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the variance. Within the intent of the term, self-created, yes, this would be self-created, they are the new owners of the property, and the zoning has been in place for a couple of years, so it is self-created, but self-created under the premise that we again are looking to renovate and re-occupy and alter an existing structure that has been a part of the town for quite a number of years. And finally, within the intent and purpose of this chapter, the variance, if granted, is the minimum variance necessary to afford relief, and to that end, the board may permit a lesser variance, than that applied for. This is a minimum variance, because they are existing variances, they are existing setbacks that we are requesting, and there really is no other way to minimize it, than to demo the structure, which is not the wishes of the applicant. So, based on that introduction, I'll pass it back to the board if you have any other questions.

Gerald Cedrone: Anyone from the audience have any comments? No, okay a motion to close/

Jane Lord: I make a motion we close the public hearing.

Jim Harrington: I'll second that motion.

Gerald Cedrone:: All in favor

Jim Harrington: Aye.

Dan Witt: Aye.

Martin Smith: Aye.

Jane Lord: Aye.

Gerald Cedrone: Aye.

Motion carried.

Public hearing closed at 8:07 p.m.

Respectfully submitted,

Barbara Brollier, ZBA secretary

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