

DEERPARK PLANNING BOARD - AUGUST 10, 2011 - PAGE #
PUBLIC HEARING - DATANG DEVELOPMENT, LLC.

The Deerpark Planning Board met for a continuation of a public hearing on Wednesday, August 10, 2011 at 7:25 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

PLANNING BOARD MEMBERS

Al Schock, Vice-Chairman

Bob Vicaretti

Mike Breitenfeld

Craig Wagner

OTHERS

Mr. David Bavoso, Town Attorney

Mr. Alfred A. Fusco, Jr., Town Engineer

Mr. David Dean, Town Board Liaison

Mr. Karl Brabenec, Town Supervisor

Mr. Timothy Gottlieb, Gottlieb Engineering

Mr. Richard Decker, Adjoiner

Mr.

Patrick Cavanaugh, Adjoiner

Mrs. Kelli Brink, Adjoiner

Mrs. Jill Decker, Adjoiner

Al Schock: Number 2 on the agenda, represented by Mr. Gottlieb.

Tim Gottlieb: This is a continuation of a public hearing held two weeks ago, where we were waiting on an opinion from the attorney regarding the definition of existing residence and whether a building can be converted to a bed and breakfast. We're also waiting on a traffic report, which it is my understanding that my client and Dragon Springs are working together on, to get that submitted to the Board.

Al Fusco: I had written up a couple of things on it. Based on the preliminary traffic study, we had requested, it seemed to be appropriate, but we have not gotten that report yet. They did get a Zoning Board of Appeals approval. The engineer quite adequately addressed our previous comments. And the Planning Board attorney was asked to review a portion of the Town Code. Were you brought up on that David?

David Bavoso: Did you speak to Glen about it?

Tim Gottlieb: No.

David Bavoso: No, okay. It was my understanding that Glen agreed with your interpretation of the Code. He didn't go over that with me, specifically, I had the conversation with you also. But as I've mentioned, it seems he agrees with what your interpretation is.

Tim Gottlieb: Okay.

Al Fusco: With that being said, then the traffic is pending. I make a recommendation that it be adjourned for thirty days, or if the parking study is given to us, then have it sooner.

Bob Vicaretti: Do we hold the public hearing open for another thirty days?

Al Fusco: You could hold the public hearing open, which I think would be appropriate.

Bob Vicaretti: Well, it's open now.

Al Fusco: Since we don't have the traffic study, so I say that it remain open until then. You could close it, if you did close it, I would suggest that you close it with the understanding that the applicant would waive all time frames in the future.

Bob Vicaretti: I mean, it's perfectly legal to extend the public hearing.

Al Fusco: It's fine. And it's not extending it, you're just not closing it. You're just adjourning it for thirty day.

David Bavoso: We may have comments from the public tonight too.

Al Fusco: Correct. I'd take comments from the public first, and then adjourn it for thirty day.

Al Schock: Comments from the public?

Patrick Cavanaugh: Good evening, Patrick Cavanaugh, 258 Galley Hill Road. Did I understand that the lawyer has accepted the definition of this dairy barn as an existing residence?

David Bavoso: To be honest with you, Glen still has to make the final determination on that.

Patrick Cavanaugh: Well, I would like to go on record, that I oppose this sort of thing. This is, as I know you are aware, an RS, residential settlement district. In other words, all of Galley Hill Road is according to the Town of Deerpark Zoning Law, and schedule of district regulations, this district is intended to protect the integrity of single family residential areas of the Town, from commercial and industrial intrusions, that could cause a decline to the quality of life within these generally single purpose section of Town. That's specifically stated. Now, specifically the Town of Deerpark has a definition of bed and breakfast. Bed and breakfasts are acceptable within this RS, residential settlement district. But there's definitions for bed and breakfast. And that, by the Town of Deerpark, and although I had no particular involvement in that definitions, I was aware of it, and participated in some of the conversations about that. And specifically, these definitions were not lightly held. They were gone over and specifically talked about, and the Town accepted these things. And although it was read two weeks ago, I'll read it again. A bed and breakfast, according to Deerpark Code is "an existing residence which is used in a manner of home occupation, to provide an overnight lodging for breakfast and as part of a consideration and involving shared bath and dinner facilities. Also, including youth hostels." Now, this is a dairy barn. And I don't see how in any way, this can be considered an existing residence. And in addition to that, one of the things that is up for this change of use is, that they want to separate this from the rest of the parcel property, which does have an existing residence on it. So there's no confusion, there is no existing residence on this piece of property. And I know, and obviously I'm biased here.

Tim Gottlieb: There is a trailer on the property.

Patrick Cavanaugh: But the trailer is being removed, isn't it?

Tim Gottlieb: Not yet.

Patrick Cavanaugh: It is being removed. Is it not?

Tim Gottlieb: It's occupied.

Patrick Cavanaugh: Well, you're going to put the bed and breakfast in the trailer?

Bob Vicaretti: Please direct your comments to the Board.

Patrick Cavanaugh: So, it is my understanding that it was stated two weeks ago, that the trailer was going to be removed. Even if it's not removed, I don't think the site is including the trailer as the bed and breakfast. So, it's my contention that when you have a definition, and it's a definition by the Town that says "existing residence," I don't know how you can take that apart, and say "oh, we'll just make it something else." Particularly when this is talked about as a district intended to protect the integrity of single family residential areas. So, I have a problem with that. And I don't know whether the Board will talk to the lawyer, and if anything will be said to him. But I think it's a difficult situation to try and change that in the middle. Also, according to the, again I quote from the Zoning Law schedule districts... when I looked at the map of the dairy barn, I didn't see a height marked on it. The total height, and there's a restriction of 35 feet. And from the lake side, I don't know if the Board has ever seen the building in particular, but there's a road side and then there's a lake behind it. But the lake side looking out, the height of that building, in my estimation is certainly over 35 feet. Which may not seem much, but again, it's like piling things on top of one another to say, "oh we'll give them that, we'll give them this." There's no reason to give them this. I don't understand what making a dairy barn into a bed and breakfast, how that helps them, and why it shouldn't be allowed to affect people who... One of my big things about zoning is, you can't depend on the economy, as we all may be aware of, these last couple of weeks. But the one thing you should be able to feel good about is zoning, and it's not going to be changed underneath you. I've been a resident there for thirty years, and one of the things that I was interested in, and am still interested in, is the residential single family residential rural area, and that's what I want to keep it as. And I think as a resident, I have that expectation that the Town will keep it like that. I urge the members to take a ride along Galley Hill Road at some point, if you haven't. See what it is, what it looks like, and how different it is from everything else there. It's a barn, and it's a wonderful barn, use it as a barn. I don't think that this... we have questions about how many people living in the residence, in a single family area, and of twenty people sleeping in this residence. You're not an enforcement agency, and I'm not trying to put that on you. But if I have that problem with the same group of people, how do I know that they're not going to take a barn, and turn that into a sleeping area too for 100 people. And I do hope that the town lawyer will look at this definition, and more than just.. "well, we can get around that." It's a defined thing, and not something that should be looked around. And I do think it's necessary to keep the public portion open. I was going to call for a vote, and ask, with all due respect, for the Planning Board to call for a vote and turn this down tonight. But I don't think that we have a quorum. So, I think it's necessary... is it going to be in two weeks or thirty days, when this comes back up?

Bob Vicaretti: Thirty days. We can't vote tonight anyway.

Patrick Cavanaugh: I'll be back then to ask for a vote to turn this down, with reason. Thank you.

Al Schock: Any other public comment?

Rick Decker: As you know I was here last meeting, Rick Decker, 271 Galley Hill Road. I have still been trying to get a hold of that map, and then we were gone, and want to see the plans. I'm still trying to understand how they're going to park everybody down in the wetlands to begin with. And I don't know if the trailer was actually really legal in that area to begin with. To see that on the premises on that side of the property. Also, as far as that goes, can you actually apply for a permit, when you're not in compliance at the time that you're applying? I mean this is a question I have for the Board, because it's just not in compliance right now, the area. Right now the barn is being used for a woodworking shop, you know, they're doing woodworking in there everyday, even though it's registered as a barn. And traffic has changed a little bit since the last meeting, just so you guys know. I just feel that you should look into them, and get more concerns from the local residents. Thank you.

Jill Decker: I'm Jill Decker, I live at 67 Galley Hill Road. This is the first time I've spoken because I was unaware, and even tonight on your website, it doesn't say Dragons Springs. The truth is, we're really sick over the construction zone, cement trucks, tractor trailers, when they come down that little hill and they can't make that turn, then they have to go out to (Route) 209, which is a dangerous situation. There are a lot of young children that live on that road. I live closest to 209, so there's a lot of traffic. The major issue that I have, is that they don't upkeep, take care of the property, it's not mowed, it's not maintained. And they had a water leak a couple of years ago, and it leaked for months, before I called the Building Inspector, because it was leaking out onto the road, and was a hazard to cars. Once they were called, then the pipes did get fixed. But it's a waste of our natural resources. Thank you.

Al Schock: Okay, Tim?

Tim Gottlieb: I want to address the existing residence issue. Our opinion is that your residence is the location where you live, and not the actual building. My residence is Francis Street, Port Jervis. This has a trailer and a barn, and my property has a house and a shed. That's my residence. However, if the Board and the attorney say, to that they're going to go by the strict interpretation that Mr. Cavanaugh is referring to, there is nothing to prevent us from going back and converting the building now into a single family residence, and then coming back to the Board, after it's been converted and there's a c/o, and making an application. The same thing happens, it becomes a bed and breakfast. There is nothing to prevent that. Or, if they don't want to come back, they can leave it as a six bedroom residence. There's nothing to prevent that, it's a single family zone. You can have a six bedroom residence in the single family zone. So, there are options we have, but to question that existing residence is, I believe, splitting hairs, because we can come back to the Board and make an application.

Al Schock: Okay, thank you. Yes, you wish to speak?

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Patrick Cavanaugh: Yes, Patrick Cavanaugh again. Certainly what he says, and I'm sorry I forgot your name?

Tim Gottlieb: Gottlieb.

Patrick Cavanaugh: Mr. Gottlieb. It sounded like a threat. And I don't think that it's splitting hairs. And it's zoning, and you have to have definitions that are very defined, and by definitions, you're defining what's going on there. And the same that, saying that a barn is a residence, and no one is living in it, I don't think that fits in at all.

Bob Vicaretti: I'd just like a moment, for clarification, if I may. He is absolutely correct. In Orange County and New York State there are plenty of people that have taken barns and have turned them into residences. I mean, that's a use for an old barn. And that's no more than Tim just explained here, they can do the same thing. It's not a backdoor approach that he's taking. Nobody is saying that a barn is a residence, a barn is a barn. No one is living in a barn, so technically, it's not a residence. A trailer might be, but not the barn, not the shed either. But there again, to make you aware, like Tim was saying, they can come back and make a new application, go to the Building Department, renovate the barn, make it into a single family, or whatever kind of residence they want to make it into and come back and re-apply, and then go through the process and make it conform to the zoning law.

Patrick Cavanaugh: Well, if that's what they have to do to conform, I think that's what they should do.

Bob Vicaretti: Yeah, but we'll not make them jump through hoops to get the end results.

Patrick Cavanaugh: No, I'm certainly not trying to do that.

Bob Vicaretti: We're just upholding the zoning law.

Patrick Cavanaugh: Exactly, and I'm just trying to defend my area that is zoned a specific way, and I don't understand. If they have to make changes to fit into the zoning, then they should do that.

Bob Vicaretti: Don't think that I'm taking sides here, I'm just trying to clarify and make sure that everybody knows what's going on.

Al Schock: Any other comments? Okay, we'll just leave the public hearing open for thirty days.

Bob Vicaretti: I'll make a motion to extend the public hearing for thirty days.

Mike Breitenfeld: I'll second that.

Craig Wagner: Aye.

Mike Breitenfeld: Aye.

Bob Vicaretti: Aye.

Al Schock: Aye.

Motion carried.

Public hearing left open, and will be continued at the September 14, 2011 meeting.

Respectfully submitted,

Barbara Brollier, secretary