

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, April 14, 2010 at 7:00 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

#### BOARD MEMBERS

Willard (Skip) Wilson, Chairman  
Derek Wilson  
Mike Breitenfeld

Dan Loeb  
Noel Malsberg  
Theresa Santiago

#### OTHERS

Mr. Glen A. Plotsky, Town Attorney  
Mr. Gary Spears, Town Board member  
Mr. Dave Dean, Town Board Liaison  
Mr. Brad Cleverley, P.E.  
Mr. Chun Feng, Applicant  
Mr. Charles Swartz, Applicant

Mr. Alfred A. Fusco, Jr., Town Engineer  
Mr. Ron Babcock, Applicant  
Mr. John Fuller, P.E.  
Mr. Al Lipman, Esq.  
Ms. Lana S. Han, Esq.

#### THE PLEDGE OF ALLEGIANCE

#### HAWKS NEST CAFE – PUBLIC HEARING

Represented by himself and John Fuller, P.E. 858-8277  
Owner/ Applicant Mr. Babcock wishes to re-construct the old  
Hawks Nest Restaurant, located at 601 Route 97, Sparrowbush, N.Y.  
It is an RRC Zone Section – Block – Lot = 33 – 1 – 1.1  
Application submitted February 16, 2010.

#### SEE ATTACHED PUBLIC HEARING RECORD

The Board decided to leave the public hearing open for written comments, until their next meeting, April 28, 2010

Derek Wilson said that a letter received from NYSDOT says that this projects' single point of egress and ingress is what they will be investigating.

John Fuller said that he had a meeting with the NYSDOT representatives two weeks ago, and they conveyed their comments to him, that is, what they are expecting. He said that they do support the project, but they clearly have stipulations that they want this applicant to follow. He said that essentially what the NYSDOT wants, is a division between the traveled way, and the property. He said that they recognize what was the pre-existing condition, and are looking for a single point of ingress and egress from the property, onto Route 97. He said that they did talk about creating a circular traffic pattern in front of the building, and are looking at a possible guard rail and/ or median to divide the parking area from the traveled way.

Skip Wilson asked if Mr. Fuller has any documents from the NYSDOT yet?

John Fuller answered no, just a letter that they had sent to him.

Skip Wilson asked for a copy of that letter for the Board.

John Fuller answered yes, he will get that to the Board. He said that revisions will be pending on the maps, for the NYSDOT changes.

Derek Wilson asked if it is possible to place a retaining wall out by the embankment?

John Fuller answered that with a guard rail the parking can be maximized. He said that from what had been the original parking area, there's really little room that would be obtained by a retaining wall. He said that he will be able to get the minimum parking spaces, as required by the ordinance. He said that a guard rail will only occupy approximately one half foot to one foot of space, along the property front. He said that the NYSDOT

doesn't want patrons parking out of the parking spaces, onto Route 97. He said that there are several options on the table, and he will have another meeting with NYSDOT

Al Fusco asked if there's an issue with their property line?

John Fuller answered the guard rail will go on in the right-of-way. He said that there is prior precedent, and the NYSDOT has acknowledged that, that they can cramp parking in the right-of-way, through a legal matter. He said that there is precedent that patrons have parked in NYS right-of-ways under pre-existing conditions, like this one. He said that their biggest issue is that they want single points of ingress and egress into the property, and they want a division between cars not being able to back out onto a right-of-way. He said that he's looking at traffic patterns of coming in one side, coming across into angular parking, that is, 45 degree or 60 degree parking, so that they come in one side, and exit back out the other side.

Glen Plotsky advised the Board that the 239 distribution, pursuant to the General Municipal Law was all made on March 8, 2010, which was 36 days ago, and there's been no responses received from any of the agencies. He said that the notification to the National Park Service, actually came back. He said that they are not technically required to be noticed, they were just notified as a courtesy.

Noel Malsberg asked, what is the status of the septic system?

John Fuller answered that there was a pre-existing septic, which, with the co-operation of the Town Engineer, they are testing the system. He said that it was a functioning system, and the applicant would like to re-use it. He said that it is based on the fact that the occupancy will be the same, as was used previously. He said that there is also a pre-existing well there as well, which was drilled a number of years ago.

Derek Wilson asked, does SPDES apply to this?

Al Fusco answered that he still has to check that all out. He said yes, if it is over 1,000 gallons, then he will need a SPDES permit. He said that if it is under 1,000 gallons, then it will be handled by the Orange County Health Department, because of the nature of the business.

Derek Wilson asked about the parking area?

John Fuller answered that it will be gravel, and whatever else will be required by the NYSDOT. He said for stormwater purposes, he does not want to increase the intensity of the property from what it was previously.

A citizen asked about the roadway, the ingress and egress, will vehicles drive over the septic field? He then asked, where is the septic field?

John Fuller answered no, and showed the location of the septic field on the map.

#### CHARLES SWARTZ – PRE-APPLICATION CONFERENCE

Represented by himself and Marina Swartz

Owner/ Howard Kuperman

Applicant/ Chuck Swartz wishes to create a flea/ farmers market on property located on Route 6, Town of Deerpark, Orange County, N.Y.

It is an IB Zone.

Charles Swartz said that he has recently opened a furniture business on the property where the I-84 RV business was on Route 6. He said that he has lots of interest for this project from the agricultural groups, such as the Cornell Co-op who have vendors looking for places such as this, to do business. He said that the huge paved parking area will have plenty of room to put 30 to 40 vendors. He said that he would like to have this open on Thursday and Saturday and Sunday.

Mr. Plotsky said that looking at the IB zone, there are no permitted uses and it would seem that the proposed use would be in the nature of a retail store. He said that this would have to be a special use, requiring a special

use permit from this Board. He said that the issue is, that this property has always been used for commercial purposes, and there has been various site plans, and it sounds like the furniture business that he is currently operating would require a special use permit. He said that this needs to be straightened out with the Town Building Department, and certainly since Mr. Swartz wants to operate a flea market, then he will have to make an application before this Board for a special use permit. He said that they both are retail type uses, both permitted in the zone, but they are specially permitted, which requires a special use permit. He said that at this time, he can see no other way around it. Mr. Plotsky instructed Mr. Swartz that to obtain a special use permit, he has to make an application before this Board, it would require a public hearing.

Derek Wilson said that the previous site plan for this property had a site plan already. He said that a flea/ farmers market would not be high intensity, it might just have a greater parking demand, if it becomes popular with the public. He said that if the Building Inspector already has an existing site plan, could this applicant go through the procedure with that existing site plan, and maybe just change the hours of operation.

Dave Dean said that this is going to be an ongoing process, and the obvious answer is to get Mr. Kuperman to come in and go through the site plan process for his property, so that when a gentleman like this comes before the Board, and wants to open a business, Mr. Kuperman will already have a site plan that allows for a retail operation already. He said that that site plan could cover a host of all different type of businesses.

Derek Wilson said that the last site plan was for the RV business, which was a retail business.

Skip Wilson said that Mr. Plotsky and Mr. Fusco will research this, and advised Mr. Swartz to come back to the next meeting on April 28, 2010.

#### DRAGON SPRINGS BUDDHIST INC. – PRE-APPLICATION CONFERENCE

Represented by Chun Feng, & Lana S. Han, Esq. 754-7400

Owner/ Applicant Dragon Springs wishes to expand their cafeteria building, located on Galley Hill Rd., Cuddebackville, N.Y

It is an RR Zone. Section – Block – Lot = 31 – 1 – 21 & 22

Ms. Han said that her client is proposing a relatively minor provision to the site plan. She said that her client is proposing a gazebo to house a fire pump, for appearance and also to protect the fire pump. She confirmed the location of the fire pump, and said that the gazebo will protect the fire pump from freezing temperatures. She said that there are two more fire hydrants proposed, located near the cafeteria, a building that has already been approved. She said that her client would like to propose to re-side the previously approved cafeteria area, and the educational facility, because sometime in the future, an educational facility will be needed by young practitioners of Dragon Springs.

Ms. Han presented plans of what has already been approved, showing the cafeteria.

Chun Feng said that the previous approval was for 100,000 square feet.

Ms. Han said that she will get the exact figures for the Board. She showed the footprint for the change, saying that the footprint was pretty much the same. She said that the swimming pool will change into a rehearsal hall, because that would be a better use for the space. She indicated the area that was a swimming pool. She said that there is also going to be a little extension beyond a previously approved area, that would be touching the walkway. She said that this would cause no increase in impervious surface. She showed a little increase in the swimming pool area, which is proposed to be a rehearsal hall.

Ms. Han said that another change would be classrooms and dormitories in the educational building, that is, three more levels proposed, to incorporate those spaces into this area.

Skip Wilson asked, is it a school now?

Ms. Han answered that it will be classrooms for younger practitioners to be educated.

Skip Wilson asked, do you know the number?

Ms. Han answered that we have 100 full time now, and 100 on weekends.

Derek Wilson clarified by saying that the size of the school, for the building code, the applicant must put in the proposed occupancy.

Ms. Han said that talking about increase in capacity, her client will have to make a separate application for that, but now there is no anticipation for immediate increase. She said that since her client is building this right now, they would like to make sure that in the future, they do have increased capacity, that they will have the facilities available. She said that there is no immediate increase right now, and do not anticipate any increase, as of now.

Ms. Han said that the other change is, her client is re-locating the expansion area for septic, and this is in connection with the capacity that she mentioned, the re-location of expansion and the building of the subsurface absorption area, to increase the wastewater subsurface capacity. She then showed the Board the original location, on the map, and also showed the new location. She said that this is in anticipation of the future. She said that if her client wants to apply for an increase, then this will be helpful to have, that is, an increase in capacity to absorb, for the subsurface absorption area.

Derek Wilson asked, the one that is there, hasn't been built yet?

Chun Feng answered, pointing to the map, that this is 8,000 gallon per day is here, that will not be changed, and nothing has been built here yet.

Derek Wilson asked, you will go to another reserve area then.

Chun Feng pointing to the map, said that in addition to that, this is the reserve area, and this is the area here of additional. He said that this is the area for the current 8,000, and before it was here, and now it's re-located here. He said that this here is the additional reserve.

Derek Wilson said, then you will have to absorptions?

Chun Feng answered yes.

Derek Wilson said that the swimming pool has not been built yet, so will that building become three stories, which will make it, how many square feet will you be adding to that structure?

Chun Feng answered 80,000 to 90,000 square feet. He said that the height will be three stories. He indicated on the map where the proposed VIP building was, and said that instead, the three story building will be built here. He said that it will be connected to the multi-purpose building. He showed that the building will be at a lower level.

Skip Wilson, asked what will be the height?

Chun Feng answered, approximately 12 feet per story, which will be approximately 40' or so.

Mr. Plotsky said that even though this applicant is attaching the two buildings, it is still a new building that they want to build, and they are adding three stories to what was already effectively a three story building. He said that he understands that when you measure the height, you measure it from the grade, and instead of it being 120' building, from the base, it's only going to be a 45' building, from the base of the grade to the top.

Chun Feng said that looking at the hill here, nobody can really see this building behind it. He said that he considers it as one building.

Skip Wilson said that it has nothing to do with visual, he said that he needs the height for the fire company.

Mr. Plotsky said that it has to do with consistency. He said that the client says that he can build a 45' building,

because he already has a variance, and anybody else who would come before this Board who already got a variance, would not have to go and get a new variance. He said that that is not how it works. He said that if the applicant wants a new building that doesn't conform with the zoning, the applicant has to go for a variance.

Mr. Plotsky advised the Board that if this applicant is proposing 45' from base of grade to the top, then this applicant will have to go to the ZBA for a variance.

Mr. Fusco had handed out his review of this proposal, and said that the applicant had showed him the three additional floors, but he said that he needs to see an elevation of the building. He said that the applicant needs to put that on paper for the Board, to show a planned view and an elevation view, so that the Board can see what it is. He said that the applicant also has to look at the ordinances, and there is a height of 35' above grade, and anything over that, the applicant will have to get a variance for. He said that the applicant may want to modify their proposal. He said that it doesn't mean that the applicant cannot get the same square footage that they're looking for, but it may not be as high. He said that the applicant needs to look at that at his end, and bring a proposal back to the Board, and show the Board, not just the three stories, but where they want to have them.

Mr. Fusco said that the Building Inspector and himself had met with Dragon Springs representatives yesterday, and went over this plan. He said that this applicant wants a temporary structure, so that when they are building this, they will have a welding shop, a carpenter shop. He said that a lot of people bring in trailers, and these applicants have already built a steel structure there, that they attempt to disassemble, after the building is built. He said that the Building Inspector and himself had told these applicants that they needs to put that building on the site plan, and then get a permit annually from the Town Building Department. He said that no C/O will be given to a structure, until that is removed.

Mr. Plotsky clarified by saying that no c/o will be issued, for the building that they're building, using the temporary structure, until the temporary structure is removed.

Al Fusco answered, that's correct.

Mr. Plotsky clarified by saying that they have to have a c/o in order to use the temporary structure, in order to build the new one.

Al Fusco said that there was a building considered a wood shed at one point, that was turned into storage shed. He said that there was a problem with it, during a rainstorm, and they put up a retaining wall. He said that when they first started digging the re-taining wall, it got over-excavated, and in order to safely retain the grade at that point, for the storage building, they had to put in additional retaining walls, that they chose to turn into a mechanical room, for the storage area. He said that the Building Department allowed that to continue, for safety reasons, but now that has to be included on the site plan, and also issue a building permit for that, with all of the building requirements. He said that that is in the process of being done right now, because the applicants have given the building department a plan for that, which is being reviewed by the building department and himself.

Al Fusco said that in relationship to the pump gazebo, he needs additional information and details on it, which will improve the emergency structure, power, and things of that nature. He said that he just needs a lot more details, concerning that system.

Al Fusco said that the applicant did move the parking spaces around, and it needs to be re-visited, and see what they are going to do in the long term. He said that he also needs to see handicapped spaces on the plan, and designations, that is, 2% spaces needs to be designated as handicapped. He said that since this applicant is going to be moving the absorption area, reserve area, he said that testing needs to be done there, to determine that, which will go hand in hand with the SPDES permit, to be modified. He said that those soil tests needs to be witnessed.

Al Fusco said that any proposed landscaping or lighting has to be shown. He said that also, erosion and sedimentary control plans (silt fence), need to be indicated on the site plan. He said that he had recommended a rain garden, or a similar stormwater treatment area, for the impervious area, coming off of the roofs, and the

applicants will be looking at that.

Al Fusco said that SEQRA work still needs to be done on this project as well, and a long form EAF should be submitted.

Al Fusco said that any Board comments will also be welcome.

Glen Plotsky asked, is there going to be two reserve areas for the absorption?

Chun Feng answered that he was asked for it by the Town Engineer and the Building Inspector, because there was a concern because the building square footage is big, and the 8,000 gallon is a little bit risky. He said that they found an area that percolated pretty good and they identified this location.

AT THIS POINT THE FIRST SIDE OF THE TAPE WAS FINISHED, & THE TAPE RECORDER STOPPED

#### PEENPACK MEADOWS SUBDIVISION

Represented by Mr. Al Lipman & Mr. Brad Cleverley, PE 291-8650

Owner/Applicant - Jaison Joseph is creating an 18 lot subdivision on property located off of Peenpack Trail, Huguenot, N.Y.

It is within the HMU Zone.

Section - Block - Lot : 62 - 1,3,4,5 - 1,4-

9,14,19

Application received March 5, 2003

New map submitted.

Mr. Lipman said that the Board now has two site plans, one for the first section of this subdivision, and the other for the balance.

Mr. Cleverley said that since the last meeting, there were some minor comments from Mr. Fusco, which he has addressed. He said that he has submitted to the Orange County Department of Health for their approval, the three lot subdivision. He said that he received back from them a letter, dated April 12, 2010, which he read... "Dear Mr. Cleverley, Please be advised that the plans dated 1/28/10, last revised 3/16/10, the above referenced project, have satisfactorily addressed our comments, based on the information available at this time. However, in response to your request, approval is not being granted at this time. Failure to request approval in nine days, is not sufficient reason for disapproval. If you have any questions, please contact this office. Ed Sims." He said that essentially he has approval from the Health Department.

Skip Wilson said that the applicant cannot get official approval from the Health Department, until this Board signs off on the maps.

Mr. Plotsky read the letter from the Health Department again, and stated that they are not granting approval at this time, but in this letter it is acknowledged that he has satisfactorily addressed their issues.

Al Fusco said that Mr. Cleverley has addressed his comments, except that he still needs to see the Health Departments' stamp on a map, a developers agreement, and appropriate escrows.

Al Lipman said that the Health Department won't stamp anything, until this Board adopts a resolution.

Al Fusco said that before the maps are signed for filing, he has to see the stamp. He said that this Board can state a conditional approval at this point, which will allow the applicant to get a stamp, and allow the applicant to get a developers agreement.

Al Fusco said that an escrow inspection fee is still needed, also easements, deeds of dedication, title policy and a bond, if that is the avenue that the applicant will take.

Al Lipman said that Mr. Plotsky had told him that his firm is still revising the developers agreement.

Mr. Plotsky answered yet, that is accurate.

Mr. Cleverley said that descriptions have already been submitted; one easement is one drainage one, which is a drainage easement on lot #16.

Al Fusco responded that Mr. Cleverley did submit a metes and bounds, which has already been approved, but it's not in the form of an easement, so it hasn't been submitted, so to speak.

Al Lipman said that he will get that in the proper form to Mr. Fusco. He then asked Mr. Fusco if there are any problems with the overall plan?

Mr. Fusco answered no.

Mr. Cleverley said that this is phase 2, section 1, and phase 2, section 2.

#### MOTION

Derek Wilson made a motion to schedule a public hearing for the Peenpack Meadows subdivision, phase 2, section 1 on Wednesday, May 12, 2010. Dan Loeb second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

The Board told Mr. Cleverley that he does not need new drawings for the public hearing.

Mr. Plotsky told Mr. Cleverley that he needs to send the public hearing notice to all of the adjoiners located on all of phase 2.

Al Lipman said that his client is covered, in terms of the expiration of the preliminary, and asked Mr. Plotsky if he does concur.

Mr. Plotsky answered that by the applicant filing for phase 2, section 1, he does meet the conditions of the town statutes.

#### COMMUNICATION AND CORRESPONDENCE FROM THE CHAIR

Skip Wilson told the Board that the Town Supervisor told him that there will be training at Town Hall for the Board by the Town Attorney.

Mr. Plotsky said that he will get a date back to the Board members. He said that the Town Board members have also expressed an interest in attending.

Dan Loeb said that future land use and development meetings will be held at 240 Main Street in Goshen, N.Y.

#### DEERPARK VILLAGE DISCUSSION

Mr. Fusco said that Mr. Parish had sent him the latest documents which were changed last week, and he had re-changed some again, which his secretary had typed, but he hasn't proofed them yet. He said that he is meeting with Mr. Parish again tomorrow, and it is his goal to finalize the meat of the document tomorrow (minus typing errors and sequential page listings). He said that Mr. Parish e-mailed him April 12, 2010, regarding a request for an extension, due to the floods and the holidays, an extension to April 22, 2010. He said that this final document will be gotten to the Board members for review, both by e-mail and in a hard copy.

Mr. Plotsky said that that document will be gotten to the Board either on or before April 22, 2010, and at that time the Board has 30 days to either review it or adopt the FEIS. He said that if there is language within it that the Board does not agree to (or language that Mr. Fusco and Mr. Parish does not agree to), the Board basically tells Mr. Fusco what it should say, and Mr. Fusco then takes the document back to Mr. Parish. He said again, the Board will have 30 days to either adopt the document, or

propose to modify it. He said that once the document is adopted, then Mr. Fusco starts working on the findings statement.

#### COMMUNICATION FROM THE TOWN BOARD LIAISON

David Dean said that an applicant came before this Board tonight, who wants to put a business in the IB zone, and he hopes that the site plan when found, will work out, so that that gentleman can get a permit to operate. He said again, perhaps the way to approach this zone, is to have a master site plan, or a site, that lists the number of particular allowed uses at that site.

Derek Wilson expressed his concern, that after a flea market or farmers market, a lot of mess and debris are left on the grounds.

Dave Dean said that the particulars should be spelled out, so that no litter and debris are left on the property, and there's no permanent storage of trailers, and there has to be dumpsters placed at the site, etc., after the flea market disbands for the weekend, until the next weekend set-up.

#### EXECUTIVE SESSION

Derek Wilson made a motion for the Board to go into executive session, for the purpose of litigation at 8:20 p.m, and invite the Town Attorney, the two Town Board members present, and the Town Engineer. Dan Loeb second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

Derek Wilson made a motion for the Board to come out of executive session at 9:10 p.m. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

#### ADJOURNMENT

Noel Malsberg made a motion to adjourn. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Breitenfeld, aye; Loeb, aye; D. Wilson, aye, W. Wilson, aye. Motion carried.

Meeting adjourned at 9:15 p.m.

Respectfully submitted,

Barbara Brollier, Secretary