

DEERPARK PLANNING BOARD - JANUARY 9, 2013 - PAGE

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, January 9, 2013 at 7:00 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Al Schock, Chairman
Mike Hunter

Theresa Santiago
Bob Vicaretti

Derek Wilson
Craig Wagner

OTHERS

Mr. Alfred A. Fusco, Jr., Town Engineer
Mr. David Dean, Town Board Liaison
Mr. Kaijin Liang, P.E.

Mr. Glen A. Plotsky, Town Attorney
Mrs. Mervi Stack, Applicant

THE PLEDGE OF ALLEGIANCE

DEERPARK VILLAGE - DISCUSSION

Mr. Plotsky said that after the last meeting, the applicant and their engineer and attorney had raised a question about one of the provisions in the actual findings statement. He said that it had to do with the local law, pertaining to the hunting camps. He said that it is paragraph "B" at the end of the findings statement, and it was agreed between the applicants' professionals and the town engineer and himself, that the specific language will be removed, that was in the initial findings statement, and adopt the following paragraph... "Applicant will be required to adhere to all applicable laws of the Town of Deerpark, in the State of New York." He said that essentially it changes nothing, it just doesn't specify that particular section of Town Law, it doesn't emphasize that particular section of the Town Law. He said that it still requires the applicant to abide by all State and Town Laws. He said that the Board is now asked to consider adopting this findings statement this evening. He said that there is also a resolution for approval of the Comprehensive Development Plan that identifies tonight as being the date that the findings statement has actually been accepted by the Planning Board.

Al Fusco said that he has four copies of this document for the Chairmans' signature, if the Board passes it. He said that instead of the document mentioning the 500 foot part of the Town Code, it mentions the entire Town Code and the entire New York State Laws. He said that this is actually more inclusive. He said that then afterwards, there's a resolution, and he said that he had given this single page to the Board members, which goes with the computer disc, and the Comprehensive Plan. He said that if an when the Comprehensive Plan is adopted, that is the mapping that identifies all the work that has been done, in the DEIS, the FEIS, and all of the other aspects of it, and the findings statement. He said that it just shows what the proposed layout is. He said that this is proposed, it is a development plan. He said that at some point in the future, the developer will come back to the Board with a site plan approval. He said that at that time, that will match the development plan in various different phases. He said that there may be four phases or six phases, or eight phases, that is, it all depends on how it ends up. He said that it will be developing, but this is the overall plan. He said that that doesn't mean that it can't change, as the site plans change, as the rules and regulations change, the applicants' plans have to change with it. He said that at this point, this represents everything that the documents that the Board has been issued, and the documents that this Board has developed through the SEQRA process, have come to this culmination. He said it's nothing new, it's the same plan that was in the DEIS and the FEIS, and it is what the findings statement is based on. He said that what it does do, it indicates all of what he had just said, and it could be read into the record, if the Board wishes, because it is important that it is noted and it is repeated that it includes all of these other items. and that this is the ultimate aspect and the final part of SEQRA business that this Board has to deal with on this level.

MOTION

Vicaretti made a motion to accept the Deerpark Village Findings Statement, as prepared, submitted and reviewed tonight. Hunter second. Roll call vote: Santiago, aye; Hunter, aye; Wilson, abstain; Vicaretti, aye; Wagner, aye; Schock, aye. Motion carried.

Al Fusco said that the just approved Finding Statement will be signed, after all of the paperwork is done. He read the Town of Deerpark Comprehensive Development Plan Approval Resolution: "Whereas, an application for approval of the Comprehensive Development Plan for Deerpark Village Development, was in September 1995, was submitted to the Planning Board for a 243 acre site on the east side of Wilson Road, approximately one mile north of the intersection of Route 42 in the Town of Deerpark, and is within the Sparrowbush area of the Town, with properties designated as section23, block 2, lots 32.2 and 38.8, on the tax map for the Town of Deerpark, County of Orange, State of New York.

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Whereas, the Town of Deerpark Planning Board, has reviewed the Deerpark Village Comprehensive Plan application, in accordance with the SEQRA regulations, part 617, concurrently with its' review of the DEIS, SDEIS, FEIS and has on January 9, 2013, issued a findings statement. And whereas, public hearings to consider the Comprehensive Development Plan were conducted concurrently with public hearings for the Draft Environmental Impact Statement, on April 10, 1996, and for the supplemental Draft Environmental Impact Statement, on July 25, 2007, whereas, the Town of Deerpark Planning Board has reviewed the Comprehensive Development Plan, as submitted in the DEIS, the SDEIS, the FEIS and findings statement, and last revised and dated, December 2012, and whereas, the Town of Deerpark Planning Board has considered approval of the Comprehensive Plan upon the condition, that upon approval of the Comprehensive Plan does not constitute site plan approval. Project phases must receive site plan approval, after appropriate investigation of water, sewer, traffic generated by the proposed phase, as well as the previously approved phases, as well as the regular review requirements of any approvals granted. The site plan approval shall also require that the mitigation presented in the SDEIS, FEIS and finding statements be implemented by the applicant. Whereas, the Town of Deerpark Planning Board considered the above, certifies that SEQRA regulations 6NYCRR, part 17 have been met and satisfied. Whereas, the Comprehensive Development Plan conforms to the zoning requirements, for a Planned Residential Retirement Community, to be developed within a Planned Residential Retirement District, in accordance with the Town of Deerpark local law #4 of the year 2006. Now, therefore, be it resolved, that the Town of Deerpark Planning Board hereby approves the Comprehensive Development Plan submitted January 2013, by Deerpark Village for a 1, 518 unit development based upon the DEIS, the SDEIS, the FEIS and the finding statements. And that it be further resolved, that the Chairman of the Deerpark Planning Board is authorized to affix his signature, to signify the Deerpark Planning Boards' approval of the various plans, comprising the Comprehensive Development Plan, and the Boards' secretary is requested to file a copy of the approved plans in the land records of the Deerpark Town Clerk and Orange County Clerk, and to provide a copy of the approved plans to the applicant."

MOTION

Hunter made a motion to accept the afore read resolution. Santiago second. Roll call vote: Santiago, aye; Hunter, aye; Wilson, abstain; Vicaretti, aye; Wagner, aye; Schock, aye. Motion carried.

MERVI STACK - PRE-APPLICATION CONFERENCE

Represented by herself 283-3706

Owner/ Applicant Mrs. Mervi Stack wishes to re-open the South of the Border restaurant, on property located at 85 S. Maple Ave., Town of Deerpark, Orange County, N.Y. The half of the building that she wishes to put the bar and restaurant in, is located in New York State, and the other half is in New Jersey

It is in the IB Zone.

Section - Block - Lot = 57 - 3 - 3.1 & 4.2

Mrs. Stack said that once the building had closed as a restaurant, it was turned into a museum, and did not do very well, business-wise. She said she purchased the building approximately 1 1/2 years ago. She said that she has already spoken with a representative of the Orange County Health Department, who she said, did not see a problem because both the kitchen and the bar and the well are located in New York State.

The Board reviewed a survey map that the applicant had presented before them.

Mr. Plotsky said that Mrs. Stack had approached him about the idea for a mini-mart, gasoline type of business. He said that he knows that a substantial part of the parking area has been cleared, and is located in New Jersey. He disclosed that he is on the Montague, New Jersey Land Use Board. He said that he sees the biggest problem, as the alcohol and beverage aspect, as it will pertain to the two states. He said that Mrs. Stack will have to submit concurrent applications before both the Town of Deerpark, and the Town of Montague, New Jersey. He said that he believes that Mrs. Stack has to go back to New Jersey to ask for a variance for a restaurant, only because it's been vacant as a use for as long as it has. He said that although it's been used as a restaurant before, there's no passage of "grandfathered" in this situation. He said that in terms of the acreage, and the type of use, the applicant seems to be okay with these. He said that logistically, it's just going to be a little more complicated, because there are two Boards from two states, two town engineers, two inspectors, all of whom will be looking at this project.

DRAGON SPRINGS BUDDHIST INC. - # 10-0401

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Represented by Mr. Kaijin Liang, P.E. 754-7400

Owner/ Applicant Dragon Springs Buddhist Inc. is submitting a new site plan,, so they can obtain their special use permit, on property located at 140 Galley Hill Rd., Cuddebackville, N.Y.

It is in the RR Zone.

Section –Block –Lot = 31 - 1 - 21.22

Application submitted January 2, 2013

Mr. Liang had presented new site plans to the Board members, which included the university building. He said that years ago Dragon Springs had spoken about the school, and it says on a previous site plan “no school age children.” He said that they had respected the Boards’ wish that they not burden the Deerpark school system. He said that this school is always full-time, and before they did not have New York State and Federal accreditation, and now they have received that accreditation in 2012. He said that it is a very small school, and students must be falun gong practitioners. He said that the current school facility will not be expanded.

Derek Wilson asked about the age range of students, and the amount?

Mr. Liang said that the ages is K-6 to K-12, and he doesn’t know the number of students.

Derek Wilson said that the Board will have to know these things, He said that under New York State, RLUIPA, a university on the property is a different question, because any reference to a school, as part of religious facility, it’ll have certain protections. He said that if they have an open enrollment university, it will not have those same protections, under RLUIPA, as far as being built anywhere. He said that he was told that this is an open enrollment university, and now Mr. Liang says otherwise. He said that the town legal counsel may have to enlighten the Board on this subject. Derek Wilson asked, who pays the students’ tuition?

Mr. Liang answered that the students can get scholarships from the school, so the school provides everything.

Theresa Santiago asked if the students that attend, live on site?

Mr. Liang answered that most of them do, and there are approximately 70 plus students.

Mr. Plotsky said that the issue here is that concerning the site plan aspect, the buildings were all approved. He said that the fact that the applicant is using buildings for the university, is not what had been previously requested. He said that the thing that was not granted, around last November, was more of the special use permit, because the explanation for the use that had been requested and granted previously, was inconsistent and not the same, with what had been discovered by Board members from the applicants website, and not directly from the applicant themselves. He said that the only reference to a school was on a previous site plan, as a note, that said “no school age children” because there was a recognition that the facility was tax exempt, and therefore would not be paying school taxes, and would be an impact on the rest of the community, if, in fact, a whole bunch of school children would begin to live on site and attend the public schools. He said that there was never indication, that he can recall, where there was any discussion of the fact that members of Dragon Springs had children, wanted to live on site, and therefore, in order not to tax the school system, were going to instruct their children in a school on site. He said that the first time that the school came to light, was that several websites were discovered, and it was after that, and when the applicant was informed that this additional information had come to light, that this explanation, that it was a way to avoid overburdening the public school system, that they had built and created and participated in this school.

Mr. Plotsky stated that on the applicants’ world tour website, people receive their instruction on these premises, before they go out to their various country destinations, to explain falun gong and perform their performing art theatricals.

Mr. Liang said that the building was built, but the name of the university was not posted on the building, until they did get accreditation from New York State, and so now is the right time to present this to the Board.

Theresa Santiago asked when the applicant started teaching at their school?

Mr. Liang answered, since they’ve become accredited.

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Al Fusco referred to his technical memo, dated January 9, 2013. "Having inspected the Dragon Springs complex in accordance with the request for a special use continuation, the inspection revealed that all work in progress was within the Planning Board and Building Department parameters. However, the facilities are being used additionally for a school and college. Originally we felt the classrooms, library, etc. was for religious purposes, i.e., Sunday school. However, it appears to be more than that. We requested the narrative that you have received as part of the SEQRA review as well as a Part III of the Environmental Assessment Form. We have reviewed the material submitted and have no specific comments regarding the technical approval. The Planning Board may have questions or request additional information in accordance with SEQRA. There are two separate actions that will be required after you have thoroughly reviewed and investigated the requests: 1) Site Plan modification; 2) Special Use Permit modification and time period."

Derek Wilson asked if any other buildings are going to be used as university buildings?

Mr. Liang answered that the practitioners can use all of the buildings.

Mr. Plotsky said that the applicant needs to add \$1,500 a piece for both the town engineering escrow and the town attorney escrow accounts.

Al Fusco said that the applicant has submitted a long form EAF for this project.

COMMUNICATION FROM THE TOWN BOARD LIAISON

David Dean said that there will be zoning workshop on Tuesday evening, January 22, 2013, along with a public hearing, before the Town Board at 7:30 p.m.

APPROVAL OF MINUTES

Bob Vicaretti said that the section of the minutes, regarding Deerpark Village, the secretary had typed 1,500 to 1,800 units, rather than the correct 1,518 units. The secretary acknowledged that she would correct that.

Santiago made a motion to approve the minutes from the December 12, 2012 minutes, with the correction. Hunter second. Roll call vote: Santiago, aye; Hunter, aye; Wilson, aye; Vicaretti, aye; Wagner, aye; Schock, aye. Motion carried.

ADJOURNMENT

Wilson made a motion to adjourn. Hunter second. Roll call vote: Santiago, aye; Hunter, aye; Wilson, aye; Vicaretti, aye; Wagner, aye; Schock, aye. Motion carried.

Meeting adjourned at 8:15 p.m.

Respectively submitted,

Barbara Brollier, Secretary