

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, July 9, 2014 at 7:00 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Al Schock, Chairman Bob Vicaretti Willard Schadt
Theresa Santiago

OTHERS

Mr. Glen A. Plotsky, Town Attorney Mr. Al Fusco, III., Town Engineer
Mr. David Dean, Town Board Liaison Mr. David Henderson, Civil Engineer
Mr. Gary Flieger, Applicant Mr. Chris Kenyon, O.C. Land Trust
Mr. Keith Woodruff, Engineering Properties Ms. Lynn Feasley, Applicant

THE PLEDGE OF ALLEGIANCE

NANCY GIBSON - #11-0301

Represented by David Henderson, Civil Engineer for John Fuller 856-1536
Owner/ Applicant Nancy Gibson is seeking to build a caretakers' house on property located at 204 Peenpack Trail, Huguenot, N.Y.
It is in the RR zone. Section – Block – Lot = 37 – 1 – 28
Application submitted June 27, 2014

Mr. Henderson referred to the latest site plan and said that he demonstrated that the lots can be subdivided, with the stream crossing, and have met all of the criteria of having a caretakers' house put on the lot.

Al Fusco referred to his technical memo, dated July 8, 2014:

- 1) Temporary shared driveway agreement.
- 2) What is status on NYSDEC permit for original development for stream crossing and driveway?

Al Fusco asked about a time constraint on Planning Board approval, and asked, was it one year?

Al Schock answered two years.

- 3) Well appears to be downhill from the septic system, requiring a 200' separation. Please verify.

Mr. Henderson said that the distance is more, and will verify that for the Town Engineer.

- 4) Why is the proposed design submitted as a shallow trench system, as opposed to a traditional depth system?

Mr. Henderson answered that the other system was trench, so this one is also trench.

- 5). Please specify in more detail the characteristics of "usable fill" in regard to the SDS and curtain drain.

Mr. Henderson answered that he will submit the “usable fill” for Mr. Fusco.

- 6). Please specify the size and type of pipe for the SDS.

Mr. Henderson said that he will look at that, and report back to Mr. Fusco.

- 7). There is a driveway entrance detail. Is there any proposed change to the existing cut to Peenpack Trail?

Mr. Henderson said that the driveway detail will not change, and it’s already done.

- 8). Regarding the note on Page #1: Does the bridge and stream crossing have to be completed prior to Planning Board action?

Mr. Fusco said that this point is more for the subdivision in the future.

Mr. Henderson said that he shows on the map that it can be subdivided.

- 9). Are there any issues with the NYSDEC, in regards to this application?

Mr. Henderson answered not that he knows of, but will check it.

Mr. Schadt expressed his concern about two houses using one driveway, and that a third house cannot be built. He stated that he believes that a note should be put on the map, to that effect, that that lot cannot be accessed for a third residence.

Mr. Plotsky told Mr. Henderson to put a note on the map stating... “If a residence is placed on lot 37-1-28, access must be provided by the stream crossing.”

MOTION

Vicaretti made a motion for final conditional approval, subject to the Town Engineers’ technical comments being all addressed, a note be placed on the map stating “If a residence is placed on lot 37-1-28, access must be provided by the stream crossing” and payment of all fees. Santiago second. Roll call vote: Santiago, aye; Schadt, aye; Vicaretti aye; Schock, aye. Motion carried

BLUE RILL LLC. – FIRST MEETING - # 14-0603

Represented by Ms. Lynn Feasley, Applicant and Mr. Keith Woodruff, P.E. Engineering Properties 457-7727

Owner/ Applicant Blue Rill LLC wishes to rehab several existing on-site structures for a bed and breakfast and accessory uses, on property located at 1106 Route 42, Sparrowbush, N.Y.

It is in the RR Zone. Section - Block -Lot = 12 - 1 - 3 & 4.3
Application submitted on June 24, 2014.

Mr. Woodruff said that there are numerous buildings on the property and the applicant is rehabing all of the existing buildings to comply with the Town Zoning Code. He said that a bed and breakfast is proposed, as well as a secondary use of a retail shop. He said that the improvements of the existing roadway, adding parking and sidewalks and other footpaths are all being proposed.

Bob Vicaretti asked what buildings exist there now?

Mr. Woodruff answered that all of the buildings are on this existing site plan, and are buildings that will remain and be fixed up.

Bob Vicaretti asked about the driveway?

Mr. Woodruff approached Mr. Vicaretti, and indicated on the site plan, where the driveway ingress and egress will be created.

Al Fusco referred to his technical comments, dated June 30, 2014:

- 1) The site plan as it appears is preliminary in nature and we will provide further review as the plan progresses.

Al Fusco said that occupancy will be an issue here.

- 2). Our office will want to witness percolation and deep soil testing for the proposed Sub surface sewage disposal systems. The percolation testing shall be pre-soaked 24 hours prior to witnessing.
- 3). The applicant should supply to the Board and engineers, a report on the structural integrity of the concrete bridge, it would appear that this is more than just a bridge, and may be a dam.

Al Fusco said that this appears to be a dam, and it must be verified and make sure that it is structurally sound.

40. Submittals should include all items listed within Article 7, Section 230-44, Site Plan Review, pg. 107 "An Applicant for a Special Use Permit, may submit a preliminary site plan for review and advice by the Planning Board. Such a preliminary site plan should provide locations and dimensions of the proposed use in relation to the property boundaries and adjacent uses. It should also indicate all accesses and improvements, both existing and proposed, and any site features which could have a bearing on the project, including the general topography, and existing ground cover. This preliminary plan shall be used by the Planning Board as a basis for advising the applicant regarding information it shall require on the site plan, before it conducts a public hearing, or takes any action with respect to the plan. The Planning Board shall give no approval or disapproval regarding any preliminary site plan, but may use it to schedule a public hearing, if sufficient data is available, determine if any provisions of this article should be waived or begin its' review of the application, under the New York

State Environmental Quality Review Act (SEQRA)”

Mr. Woodruff said that there is no proposed signage at this time.

Willard Schadt asked if the perc calculations are correct?

Al Fusco answered that yes, the numbers do look all right.

Al Schock asked about the bungalows, are they on a separate parcel?

Mr. Woodruff answered that the applicant wants to keep the two lots separate, as they've already been subdivided in the past, and the one lot does have its own well and septic.

Mr. Plotsky said that a concern of his, is moving the driveway on the separate lot, and basically providing access to that lot strictly from the other lot.

Mr. Woodruff said that this is being looked at as one complete project, the same owner owns both of the lots, as well as the property across Route 42.

Mr. Plotsky said that if this is the plan that the applicant wants to go forward with, then the applicant will have to get a denial from this Board, and go before the Zoning Board of Appeals for variances for the setbacks and the parking issue.

Al Fusco added that the parking, when you have a lot line, there has to be a certain setback from that lot line, and also there is vegetation and screening which has to be considered.

Mr.. Plotsky said that with a joint proposal, the applicant might be able to satisfy the ZBA that this is a desirable result, but if all access is coming off of the other lot, and you're sharing parking, it's a tough sell to have it on two lots, particularly when your explanation for keeping it that way, is that you might want to sell one off.

Al Fusco said that another issue is, that there is a lake on the property, and wetlands in and around the lake will have to be delineated.

Mr. Plotsky said that there is a note already on the plan, saying that there are no wetlands.

Al Fusco said that that should then be noted on the plans, and make sure that the NYSDEC is satisfied.

David Dean advised the applicant to get a hold of the NYSDEC, before she spends a lot of money, because they can be very picky, especially since there is a lake on the property.

Mr. Woodruff said that he will consult with his client, and decide if they will make the necessary changes, or proceed before the ZBA.

Mr. Plotsky said that the Town Attorney escrow amount will be \$1,000.

Al Fusco said that the Town Engineering escrow amount will be \$1,800.

The secretary said that this money has to be brought into the Town Supervisors' office, before the applicant can come back before this Board.

Al Fusco said that a 239-GML review, will be required for this application.

Ms. Feasley said that this property was initially subdivided in 1993.

Mr. Plotsky said that a lot line removal might be a possibility for this applicant, the process is just done through the Building Department and the Town Tax Assessors' office. He said that the first step is that the applicants' professional would have to go to the Building Department with a survey, and have a proposed deed description metes and bounds, and then be prepared to file a mylar with the County, along with the deeds, and then go to the Town Assessors' office, so that they can change the tax map.

Mr. Plotsky said that if, in fact, there is some kind of a setback issue with regard to the existing building, then the applicant would come back here; but if there isn't a setback issue, the applicant can just do a lot line removal through the Building Department, Tax Assessor and Orange County.

GARY FLIEGER - UPDATE - # 14-0102

Represented by himself 672-3533 & Mr. Chris Kenyon, Orange County Land Trust Owners/ Applicants Gary & Judy Flieger wish to turn 73 acres over to the State of New York, located at 180 ShinHollow Rd., Town of Deerpark, Orange County, N.Y. Half of the property is located in the Town of Greenville, and Huckleberry Ridge State Park is the adjoining property.

It is in the HMU Zone.

Section - Block - Lot = 50 - 1 - 50

Application submitted March 3, 2014

Gary Flieger said that new maps were submitted today.

Mr. Plotsky said that since the last meeting, his office was sent information from the Orange County Land Trust, and there's a letter agreement between the Orange County Land Trust, the New York New Jersey Trail Conference and the Open Space Institute Land Trust, which basically says that they all are interested in acquiring this land along the ridge, and that if the Orange County Land Trust acquires the land, the other two entities will share the cost of the \$75,000. purchase price and the Orange County Land Trust will pay for legal and surveying and other related expenses. He said that between the contract and this letter, it does appear that if everything goes as discussed, the subdivided piece will be owned by the Orange County Land Trust, which through these entities, will be connected to the Huckleberry Ridge State Park. He said that one issue that was raised, with regard to the subdivision approval, had to do with access, and whether a landlocked piece was being created. He said that Mr. Flieger had indicated that once the whole process was completed, the piece would not be landlocked, because there would be access provided through the State Park. He said that on one of the overview photograph maps, there is demonstrated where the State Park is, where the two parcels in Greenville are, the parcel is Deerpark which is being subdivided, and the train tracks, and Mr. Fliegers' subject property. He said that on this document that he had received, it shows easement to be acquired, which is over the train tracks, which Mr. Flieger had repeatedly said that that is not legal, it cannot be crossed, and that is why Mr. Flieger wanted to subdivide in the first place. He said that he was told that when this property was acquired, there was language put into the deed, that would essentially give permission to the owner to cross over the train tracks, (by foot only is written into the deed), notwithstanding, that document is not signed by the railroad company that owns

the train tracks. He said that that language would potentially enable someone in the future, to argue that they've had access for years, and essentially it would be an easement by use, notwithstanding the railroad saying to the contrary, if there are any. He said that he is just identifying this as an issue by Mr. Flieger and Mr. Kenyon, because of the multiple representations that the tracks couldn't be crossed and that was why a subdivision was needed. He said that he has still not received a metes and bounds description and a proposed deed. He said that the preliminary plan that he had received seems to be adequate.

Mr. Flieger said that he believes that this survey is a complete survey.

Mr. Plotsky said that a note can be put onto the map, as a condition of final approval, to put language in the deed that says that that this piece is to be consolidated with other parcels that will collectively be known as the Huckleberry State Park.

Mr. Flieger said that the State does not have the right to put it into their deed, that it will be consolidated to that piece of property, because they do not have ownership of that property. He said that wording could be put into the deed that it could never be sold as something other than public land.

Al Schock said that his concern is access.

Mr. Flieger answered that access would come through the State property, and they would never sell it.

Al Schock answered that this board should still look at it, because basically in the future, the State can do anything they want.

Mr. Plotsky asked for clarification by asking, is it State property or Land Trust property?

Mr. Kenyon answered that it'll be Orange County Land Trust property for an interim period, until such time when the NYSDEC will purchase that land.

Mr. Plotsky asked, who owns the adjoining parcels now?

Mr. Kenyon answered the NYSDEC.

Al Schock answered the Huckleberry State Park.

Mr. Plotsky clarified by saying that the Huckleberry State Park is owned by the NYSDEC, and there are two parcels that are shown on the maps, the Greenville parcels, which are owned by the State. He asked if they have been subdivided off yet?

Mr. Flieger answered that it's all grouped in as one sale.

Mr. Plotsky asked Mr. Flieger if he has made an application to the Town of Greenville Planning Board to subdivide those two lots?

Mr. Flieger answered that in speaking with the Town of Greenville Supervisor, he was not told that he had to make an application to the Planning Board, that a subdivision was not needed.

Mr. Kenyon added that those parcels are not being divided, it is remaining as one.

Mr. Plotsky asked if the Orange County Land Trust has a contract to buy those two parcels?

Mr. Flieger answered yes, it's all as one parcel.

Mr. Kenyon answered that the contract is for the purchase of Section, Block, Lot 50-1-50 plus the two Greenville parcels.

Willard Schadt said that in dealing with the NYSDEC, it always takes a long period of time. He asked, what is the timeframe?

Mr. Kenyon answered that his experience is, generally two to five weeks.

Mr. Plotsky referred to the letter agreement between the New York New Jersey Trail Conference and the Open Space Institute Land Trust and the Orange County Land Trust, he read... "In the event it becomes apparent to OCLT that DEC is unwilling or unable to purchase the property, than the OCLT may propose an alternative disposition plan, reasonably acceptable to the other two entities. Any proceeds received from such disposition shall be distributed, as set forth in the preceding paragraph." He said that this a concern.

Mr. Kenyon answered that he will have to go back and speak with his board, but he suggested adding language that says that if the property cannot be sold to the NYSDEC, than the parties would donate the property, guaranteeing that the only disposition plan is for sale or donation.

Mr. Plotsky agreed that legally that would work.

Willard Schadt asked about a time period?

Mr. Kenyon answered that his board could say something like, "if after five years, if there is no sale, then the property would be donated."

Willard Schadt asked, why should the NYSDEC pay for it, when they can just wait for it to be donated?

Mr. Plotsky said that it might make more sense to put a note on the deed that if the NYSDEC does not purchase it, then it should be donated back to the town, for public use.

Mr. Flieger said that if he cannot sell this subdivided piece of property, he will give it up for taxes.

Mr. Plotsky said that this is definitely do-able, in that the Planning Board needs to figure out what alternative agency, whether it be the Town of Deerpark, the County of Orange, or the State of New York, who will end up with the property, in the event that the NYSDEC will not buy it or take it by donation. He said that he doesn't want the Land Trust to buy this property from Mr. Flieger for \$75,000. and then turn around and sell it to somebody else for a profit. He said that the board wants to make sure that this property is being used the way that it is being presented to this board that it is, because this board is making an exception to its' own rules and regs, with regard to the landlocked nature of the parcel. He said that he thinks that the board to approve the subdivision is okay, because it's beneficial to Mr. Flieger and doesn't hurt anyone else. He said that his obligation to this board, is to make sure that that "doesn't hurt anyone else" protects this board.

Mr. Kenyon said that his board will work with the Planning Board to work it out. He said that the Orange County Land Trust is looking to acquire these properties and then essentially flip them to the NYSDEC, so that the money that the OCLT is investing, the OCLT will get back when the NYSDEC buys the OCLT out. He said that the OCLT is acquiring this property, having it appraised, and by law the OCLT cannot pay more than fair market value, and the OCLT has offered a fair price to Mr. Flieger, and then when the OCLT turns around and sells it to the State, if there are restrictions on the property, that will affect the value. He said that in conversations between himself, his board of directors and the Planning Board, he believes that an amicable solution can be worked out.

Mr. Plotsky said that if and when the Planning Board does grant conditional approval, that it should be subject to a survey being completed and the town engineer approving the final maps and a metes and bounds description being provided and the proper language in the deed and payment of all fees.

Willard Schadt expressed his concern about the language.

Mr. Plotsky answered that the OCLT board will directly propose language to him, and if it seems like it protects the issues that were being discussed tonight, then this Planning Board with himself, will discuss it and make the final decision.

Mr. Kenyon said that it'll be at least two more months to get all the language and approvals, and everything that is needed.

The secretary was instructed to place this applicant on the August 13, 2014 meeting agenda for further discussion.

APPROVAL OF MINUTES - JUNE 25, 2014.

Santiago made a motion to approve the minutes from the June 25, 2013 meeting.

Vicaretti second. Roll call vote: Santiago, aye; Schadt, aye; Vicaretti aye; Schock, aye. Motion carried.

COMMUNICATION FROM BOARD MEMBER

Bob Vicaretti thanked the secretary for the good work she is doing, and said that some of the comments that he has made at prior meetings have not been put into the minutes. The secretary answered that since the mic system is not working, it is sometimes hard to hear everyone's comments.

ADJOURNMENT

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

Meeting adjourned at 8:20 p.m.

Respectfully submitted,

Barbara A. Brollier, secretary