

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, July 11, 2012 at 7:00 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Al Schock, Chairman      Theresa Santiago      Derek Wilson      Craig Wagner  
Mike Hunter              Bob Vicaretti              Willard Schadt

OTHERS

Mr. Alfred A. Fusco, Jr, Town Engineer      Mr. David W. Bavoso, Town Attorney  
Mr. David Dean, Town Board Liaison      Mr. Ron Bertucci, Applicant  
Mr. Chad Martel, Home Builder

THE PLEDGE OF ALLEGIANCE

RON BERTUCCI - LOT CONSOLIDATION - # 12-0606

Represented by himself 820-3381 and Mr. Chad Martel, Builder

Owner/ Applicant Ron Bertucci is seeking a lot consolidation on property located at 57 Shore Dr., Godeffroy, N.Y.

It is a Neighborhood Residential (NR) Zone.

Section – Block – Lot = 29 – 11 – 15 & 16

Application received June 26, 2012

Mr. Bertucci had handed out site plans of the property and said that he would like to consolidate the two lots, and take down the old house, and then build a bigger house on the one lot. He said that he has a shed in the back corner of the one lot.

Derek Wilson asked if this was a flood damaged house?

Mr. Bertucci answered yes, but they had gotten a certificate of occupancy to rebuild, but now want to demolish it and build a bigger house

Bob Vicaretti asked how many bedrooms?

Mr. Bertucci answered two.

Al Fusco referred to his technical memo, dated July 9, 2012. He said that the house will be built in a floodway, so it must be constructed in conformance with the New York State Building Code. He said that the applicant must also conform to the Town Building Code, and do things like, keep the utilities above the floodplain and things of that nature.

Al Fusco said that because the wells and septic are close to the neighbors' property lines, the applicant needs to employ an engineer, to insure that there are proper separations between the well and the septic. He said that the applicant needs to provide the Planning Board with a letter, that he knows the separation distance between the applicants' well and septic is less than normal, and that the applicant holds the Town harmless from that. He said that he suggested ultraviolet or chlorine disinfectant on the applicants' well, so that he is not polluting his own drinking water from his well.

Al Fusco said that the Board can either set or hold a public hearing on this application, and then review the SEQRA declaration, and move the applicant forward.

Derek Wilson said that this applicant is making the situation better, by combining two lots into one lot.

Al Fusco said that there is actually a planning issue, because the Board is approving it as a house lot, and the well and septic do not have the proper separations. He said that once an applicant comes before this Board, it's the Boards' function to see that the applicant does things correctly.

Bob Vicaretti asked about Shore Drive, is it a natural division between two pieces of property?

Chad Martel answered that it is one piece.

David Bavoso said that this may not fit into the definition of a lot line change, but in the definitions in the Subdivision Law, it does fit under a "lot improvement." He said that that definition is.. "a re-division of land where lot area land is shifted from one parcel to another, so to improve the shape or dimension of each lot." He said that this applicant is doing this, by combining both parcels and making it better. He suggested that the Board put on the record, that this does meet the criteria of 200-18 of the Town Subdivision Law. He said that the Board can choose to waive a public hearing.

Derek Wilson asked if the entire property is in the flood way? He said that Al Fusco had references to "floodplain" in his technical memo. He asked, if a person tears a house down in a floodway, can he rebuild in that floodway?

Al Fusco answered yea.

MOTION

Schadt made a motion to waive a public hearing on the Bertucci application, based on Section 200-18 of the Town Subdivision Law. Wilson second. Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Wilson, aye; Schadt, aye; Vicaretti, aye, Schock, aye. Motion carried.

MOTION

Wilson made a motion for a negative declaration. Hunter second. Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Wilson, aye; Schadt, aye; Vicaretti, aye, Schock, aye. Motion carried.

MOTION

Hunter made a motion to approve the Bertucci application, based upon payment of all fees. Santiago second. Roll call vote: Santiago, aye; Wagner, aye; Hunter, aye; Wilson, aye; Schadt, aye; Vicaretti, aye, Schock, aye. Motion carried

Al Fusco told the applicant that he would have to have his engineer create a mylar for this project, which the Planning Board chairman will sign and he must file that with the Orange County Clerks' Office, which is now located in Florida, New York. He repeated that the applicant needs to also submit a letter, stating that the well and septic are too close to the neighbors', and he will hold the Town harmless.

Derek Wilson added that the applicant also has to have a new deed drawn up, which the Town Attorney will have to review, before the applicant can get his maps.

DRAGON SPRINGS BUDDHIST INC. - DISCUSSION

Al Fusco said that his office had directed Dragon Springs to come back before the Planning Board because they had a few items that are a little bit different, from what is on the site plan of the Planning Boards' last approval. He said that he wanted the Planning Board to be aware of that. He said that the applicants' engineer did draw up a new site plan showing where the changes are, however, the changes are clouded on the map. He said that one change is a garage that the applicants want to turn into an incense shop, and he does not have an issue with it. He said that he feels that the Planning Board should know about this change. He said that another change is a gazebo that was a little dot on the map, and the applicants have chosen to build it bigger, and label it a "meditation hall." He said that he has no issue with that, as it is structurally sound, and is attractive. He said that the last change is that the applicants want to include a quite large metal storage shed, to store tools. He said that he has no problem with the structure itself, and because it is an additional structure, he wanted the Planning Board to be aware of it. He said that it's basically in a location where the applicants had put up a welding shop before, which was labeled "temporary" and has now been removed, in accordance with the Planning Board directive. He said that although he has no problem with any of these changes, he still thought that the Planning Board should be aware

of them, rather than find out about them, after the fact. He said that the applicants were told to come before this Board for all of these changes.

Mike Hunter said that he recollected that any changes were to be put on hold, until all issues were brought up to speed, such as the escrow accounts, and so forth. He then asked how big the incense building is proposed to be?

Al Fusco answered that it is going to be larger than the garage that was there before, about double the size of what it was. He said that the applicants have paid all of their escrow fees, so they are up to speed on that, and they have applied for all of the proper building permits. He said that his office has just recently done an on site inspection, and has issued a certificate of occupancy. He said that the applicant will have to submit an application to this Board and come back before this Board to go through the process of approval for these changes.

Theresa Santiago asked, wasn't there an order of "no more construction" on the property up there?

Al Fusco answered that that was what the County had suggested, but it's up to this Board to make the decision. He said that concerning these changes, the applicants are making the buildings bigger and changing the use of them. He said that he wanted to make sure that the Board was aware of these changes, because the Board members may see a little dot on the map that says "gazebo" and then when they go onto the property and see some structure as big as this room, which is supposed to be a gazebo, they may be wondering what is going on.

Derek Wilson indicated on the map, that there is one structure almost as large as a football field, according to the measurements on the second sheet of the site plan.

He said that the previously approved garage is supposed to be 30' X 80' and now it says that it will be 65' X 227'. . . He said that he and the Building Inspectors' office referred the applicants to come before this Board, for these changes.

Willard Schadt asked if the applicants will be coming back before this Board, for their changes?

Al Fusco answered yes, they should submit an application and new maps.

Al Schock reviewed by saying that none of these proposed changes are done yet.

Al Fusco concurred.

Derek Wilson asked about the lake that was to be enlarged on their property, was it approved?

Al Fusco answered in the affirmative. He said that the applicants do have all of their permits from the NYSDEC. He said that the applicants' next step probably will be, that they want to improve their entrance. He said that the applicants first came to the Building Inspectors' office, and he and the Building Inspector told the them that they need to come before the Planning Board for the changes. He said that basically they are looking for a change of us.

Derek Wilson asked about the incense building?

Al Fusco answered that they plan on making the incense there and storing it there.

**COMMUNICATION FROM BOARD MEMBER**

Willard Schadt asked about the letter that the Planning Board received from the County, the Department of Law, concerning Deerpark Village, could it be discussed in open session?

Al Fusco answered yes.

Willard Schadt asked, will this Board be getting revised comments?

Al Fusco answered that he would assume that both letters from Orange County would be in the public record.

David Bavoso concurred and said that both letters would be in the public record, as far as reviewing them, and said that ultimately the final determination would be whatever the amended letter is, he said that he didn't see anything in this correspondence, that they were withdrawing their previous letter.

Willard Schadt asked if the Town Attorney and the Town Engineer have received any amended comments yet?

David Bavoso answered no, but is anticipating them being sent out, at some point.

Al Schock read the last paragraph of the July 2, 2012 Orange County letter: "Despite your (Mr. Sachs, Deerpark Village attorney) demands for additional revisions, the Planning Department has no obligation to negotiate with any entity concerning the comments it makes in the course of its statutorily-mandated SEQRA and GML-239 reviews."

David Bavoso answered that basically it's stating that even though you want us to change our comments, it doesn't actually mean that we have to change our comments. He said that even though Mr. Sachs wants the comments changed, it doesn't mean that Orange County has to change them.

Al Fusco said that he doesn't think that there is an issue with the Countys' comments, other than, he said that he takes exception that the applicants are trying to force the development outside the area, by taking away the Town of Deerparcs' ability to have the project that they want. He said that he does not think that this is proper. He said that he thinks that the applicants can say that the Board prefers to see the growth where there's water and sewer already, which would make sense. He said, however, for the applicants to say "oh no, you can't", that doesn't make sense. He said that if that's the case, there are several towns in the County that are not eligible for major development. He said that that should be the Planning Boards' decision, not the Countys', although the County can make recommendations.

**ADJOURNMENT**

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

Meeting adjourned at 8:00 p.m

Respectfully submitted,

Barbara Brollier, secretary