

DEERPARK ZONING BOARD OF APPEALS - AUGUST 21, 2014 - PAGE # 1
PUBLIC HEARING - MARIA YU TAI

The Deerpark Zoning Board of Appeals met for a public hearing for Maria Yu Tai on Thursday, August 21, 2014 at 7:30 p.m. at Deerpark Town Hall. The following were present:

ZBA MEMBERS

Dan Witt, ZBA Chairman

Jim Harrington

Christa Hoovler

OTHERS

Mr. Glen A. Plotsky, Town Attorney

Mr. John Fuller, Civil Engineer

Mr. John Clark, Adjoiner

Mrs. Margaretann Clark, Adjoiner

Ms. Kelli Brink, Adjoiner

Mr. Gary Butler, Adjoiner

Ms. Pat McMann, Citizen

The secretary read the public hearing notice: “Notice is hereby given of a Public Hearing to be held by the Zoning Board of Appeals of the Town of Deerpark, Orange County, New York, pursuant to Article 9 of the Town of Deerpark Zoning Law on the application of Maria Yu Tai for an interpretation on parking requirements and standards; and whether Section 230-26 applies to applicants proposal. The application effects the following premises: Record Owner: Maria Yu Tai; Tax Map Designation: Section 8, Block 1, Lot 4.2; Zone Designation: HMU. Located at #491 Galley Hill Road., Cuddebackville, Town of Deerpark, Orange County, New York. Information on this application is on file with the Town Clerk, Town Hall, Route 209, Huguenot, New York. The Hearing shall take place at 7:30 o’clock P.M. on the 21st day of August, 2014 at Deerpark Town Hall, located on Route 209, Town of Deerpark, Orange County, New York, or as soon thereafter as practicable. All parties wishing to be heard shall be heard at that time.”

Dan Witt I’m going to turn the first part of our meeting over to John Fuller, who is making the application.

John Fuller: Good evening, my name is John Fuller, I’m a licensed professional civil engineer representing the application before the board and the public this evening for public hearing. For the record, all certified mailings were made and validated by the post office and I’ll give them to Barbara. The applicant is Miss Maria Tai who is the owner of the property. The application was presented primarily the concept before the Planning Board in June (2014), demonstrating the scope of the project and what we want to accomplish. There are several items which have been identified at the public hearing, questions as to how to proceed with the design, based on clarifications needed within the zoning. Let me first introduce the project to the public, and then I’ll explain why. The proposal is in the hmu district, which is hamlet mixed use, and the proposal is for a mixed use commercial development. There are approximately as indicated on the board behind me, in site plan format there’s also a rendering of the proposed buildings for the project. It will be a small grouping of buildings and shops where all the shops will be on the first floor, and will be residential on the second floor.

Jim Harrington: John, could you please speak up?

John Fuller: Is it on?

Barbara Brollier (secretary): No, it's not working, that's why you're over here.

John Fuller: So, it doesn't work. I'll talk louder. The proposal is for a mixed use commercial development, which is permitted in the zone, with shops on the first floor and residential dwelling units on the second floor. The current configuration of the site development, will be a grouping of seven different groups of buildings of which individual units would be approximately 27. This is again, a current configuration, although it could change slightly, once we go back to planning. But the idea would be a series of small buildings, there's a rendering here that everyone can look at, that would have shops on the first floor, and again, dwelling units on the second floor. The reason for coming before this board, is that clarification is needed relative as to how we are to design this site, based on current parameters within the Ordinance. Specifically, section 230-16 of the Zoning Ordinance in Article 4, is about parking, loading, access and traffic standards. It speaks in general terms, but it says that "off street parking, loading, unloading facilities shall be provided as necessary, in connection of every use. And again this is a mixed use of residential and commercial. It goes on to say "industry studies of parking needs for the type of use proposed or actual case study comparisons for the project of similar nature. The Planning Board may require the developer to add and submit such data in support of its' proposed parking provisions. The National Parking Association and the Urban Land Institute are examples of such industry sources." The reason we are citing that, just ahead of that it says "the amount of parking required for any type of development shall be based on the following factors." That being the first bullet point. Much later in item #6 is where the planning board is specifically looking for clarification. It says, "that where industry standards are inadequate, for a particular use or site involved, or such standards are unavailable, the following standards may be applied by the planning board, ZBA, officer or Building Inspector." And it proceeds to give a listing of several types of uses and what their parking requirements would be. Those are requirements that will be employed, when the applicant, in our opinion, chooses to use them, in lieu of any other study. But what we are requesting to do is, in the analysis of this site plan development before the Planning Board, is to do a traffic study, traffic and parking study, presented by a professional, for analysis for comparison of our site development before the Planning Board. The Planning Board has specifically asked us to have that clarified by this board, whether that interpretation is correct, that the provisions of Section 230-16 allow for an applicant before the Planning Board to use industry studies and/or traffic and parking analysis by professional consultants, when determining parking. We feel that it is appropriate, mainly because it is a mixed use and that when you break it down by component, in this case, it will be commercial shops and residential, that you end up with an excess of parking, due to the nature of the development, where many of the shops would be occupied and run by residents that live above those shops. Likewise the peak demand for residential will not co-incide with the peak demand for commercial. Industry studies would suggest that parking could be lessened for these type of developments. So, that's the scope of the first interpretation before this board, is whether that's appropriate for the Planning Board to employ that. The second part of this, because there are dwelling units proposed, and multiple dwelling units in the development, and the fact that it is a mixed use, there is a section within the Ordinance, which is Section 230-26 and Article 5, this is for multi-family residential uses. The way that this section is written, it suggests that the section was developed for criteria, when multi-family housing development is designed, where you will have condos or townhouses, or a community of multi-family residential. It does not reference or elude to situations where you would mix commercial with residential, it speaks

nothing of mixed use format. Now there's several provisions within the Ordinance which differ from a normal commercial development, specifically in cases of setbacks and screening and things of that nature. And so the Planning Board has asked for an interpretation from this board, whether that section should apply to a mixed use, or portions of it, or not at all. Due to the fact that the way that this section is written for multi-family housing development, that it doesn't comply when it is a conflict with the normal zoning, with regards to things like setback. And an example of that is, normal setbacks in this zone would normally be 35'. So, the way that the multi-family section is written, you would increase that to 100'. And the case of our preliminary layout of our design, a few of the buildings would fall within 100' of the property line. Many of them will not, but some of them would fall within 100', so again, commercial on the first floor, residential on the second floor, and the question is, what portion, if at all, does Section 230-26 apply to a development like this, when it's a mixed use. In this case, it's about 50-50.

Jim Harrington: How many residential units are proposed?

John Fuller: Presently, it's 50-50. So, it would be 50% commercial shops and 50% residential. As far as quantity, it would probably be around 26 or 27 units, which is the number of individual units that are shown on the current site plan configuration. Now there are some things that work against a site plan of this nature, and there are things that to greatly benefit it or enhance it. An example would be, normally a multi-family housing development, in accordance with Section 230-26 would get a 300% density bonus increase, which means that you could actually have three times the amount that would normally be permitted in this type of zone, as far as the number of dwelling or housing units. We're not asking to employ that, but that's why there's a lot of conflict in this section of the Ordinance when we have a mixed use, and that's why we have come before this board to request a clarification, which regards to that. That's the nature of the development, the nature of the two clarifications that we are seeking before this board. As indicated by Mr. Plotsky, once this board determines what manner we are to approach, we can return to the Planning Board, and continue for further site development for this project.

Christa Hoovler: In this plan, it says 35 apartments? Are you saying it's going to be less?

John Fuller: Yes, we're going to reduce that number yes. There will be a single unit over each shop. So, if there's 27 shops, there will be 27 dwelling units.

Dan Witt: And ready for public comment.

Secretary: We do have a list here, of people who signed up.

Glen Plotsky: And the people who speak, should be addressing their comments to the board, not so much to the applicant. If they have a question, they ask the board, if the board wishes for the applicant to answer at this time, they can, otherwise we can address all of the questions at the end.

Secretary: John Clark.

John Clark: Thank you. It's nice to know that having lived on Galley Hill Road for 35 years, and

my family own it for 55 years, I've got 5 minutes to talk to you. So, I'll begin and get right into it. "The board has before it tonight an application on the Galley Hill Development. The Town of Deerpark Planning Board referred the applicant, Ms. Maria Yu Tai, to the ZBA after entering a preliminary denial of the proposal presented to the Planning Board, specifically for setback requirements and parking. John Fullers' letter to the ZBA dated June 24, 2014, describes the project as a mixed use commercial plaza, uses included retail space, office space, restaurants and a farmers market. Residential apartments located on the second and third floors. He states that greater than 50% of this development will be fore commercial use. Mr. Fuller is seeking either a variance to the number of parking spaces required for this use or Z A acceptance of his adjustment which he prescribes based on peak hours of use. Article 4, 230-16A gives clear requirements as to the number of parking spaces and the June 24th Planning Board transcript states 277 parking spaces are needed, the application letter and plot plan parking calculations state 259, the number of spots provided in the plan is 204, Mr. Fullers' adjustment states they only need 188 spaces. That is a spread of 89 parking spaces from high estimate to low. Before this board rules on whether 55 or 73 or 89 spaces can be cut from the plan or not, consider this information. Mr. Fuller is also looking for an interpretation of Article 5, section 230-26, supplementary regulations to multi-family residential uses. He is arguing that this project is primarily, I quote, a commercial development with residential apartments as a secondary use. He interprets residential development such as apartments or condominiums where there are a large number of predominantly residential units that are transient in nature. He wants to convince this board that a mixed-use project, he believes is commercial space with residential secondary and provided mainly for the owners and employees of the commercial spaces, should not be subject to multi-family requirements. Well that is the real reason we are here, not the parking spaces. So, get it out of your head, it's not that. Why because multi-family development is considered in our new Zoning Law adopted in March of 2013, quote a major subdivision. Mr. Fuller argues that because this project is not exclusively multi-family, then multi-family rules shall not apply. What a dangerous precedent this would be. Any applicant, or future applicant, could look at this and see a major loophole in our zoning law, just sprinkle in some other uses, call it commercial, and the more stringent rules, the rules written and adopted in our zoning to protect our neighbors, our community and our town, these rules would no longer apply. So, Deerpark's Zoning Law defines dwelling, multi-family as, I quote "A building or portion thereof containing more than 2 dwelling units, but intended for single ownership. Single ownership is not intended to preclude cooperative or condominium ownership." Two, three right? More than two. 35 is proposed, it's now down to 26 or 27. It doesn't state that 35 three and two bedroom apartments are secondary uses and no longer multi-family. It states that if you have more than 2 dwelling units, you have a multi-family project. Period. Once this board recognizes and affirms the Zoning Law as clearly written,. And again, I know that the Zoning Board of Appeals does not make the law or change the law or adapt, they just rule on variances or interpretations. Mr. Fullers' engineering problems truly begin. Instead of the 259 parking spaces in Article 4, multi-family requires and additional 35 parking spaces, one for every 2 dwelling units. So the number increases to 294. Additionally, the multi-family requirements specify that within parking lots , no more than 15 parking spaces, in a continuous row, are allowed unless being interrupted by landscaping. Well, take a look at the plan. Reviewing the plot plan, at minimum, it requires that removal of 5 more spaces shown for vehicles to be designated for landscaping, four on the northwest parking lot, and one in the southeast parking area. Now, if you're keeping score, it brings us to the grand total of 299 spaces, not 188, 94 more than the plan shows. Now, Mr

Fuller's adjustment calculation assumes that 24 residents will also work in the commercial spaces, so they're going to work downstairs, you don't need to count them as extra. Well, guess what, there's no way the town could ever know if this is true or not. Once a building is approved, permitted, constructed and occupied, circumstances can change and the purported tenants living in the apartments could easily move or leave. So, 24 can turn into something totally different. New employees or tenants could be commuting to their jobs. We don't know. The need for parking spaces remains throughout the lifetime of the structures use and should not be dependent on the owner of the development and their expected use now. The northwest parking lot, right next to my house, across Galley Hill Road from the apartment buildings, is stretched to capacity, taking up virtually all of the property right up to the adjoining property lines and fence. No space is provided for capturing and mitigating the large volume of water that will collect and flow across this 320' by 130' expanse, there's over 101 parking spaces, and it's going to be blacktopped and what's going to prevent it from eroding and flowing onto 3 adjoining properties. Elevation measurements show a grade in excess of 8%, anywhere from 8% to 12% on this property. Further complicating the parking lot design and increasing the likelihood of runoff onto those three properties. With an average rainfall of over 46 inches, runoff is guaranteed. Ms. Tai is proposing a development way beyond the scope of the hmu zone. This is, in reality, an urban development project. Mixed use means that that zone can have a number of things, and if you want to see what it is, I can pull it out and read it to you, it says the principle primary use is for one and two family dwellings, that's golden and it's just like the old rural residential. But after that, it allows for things like retail space, office space, restaurant, it allows all of it. But it never says all of them in one development, that's another whole thing, that's urban development, and has nothing to do with hmu.

Dan Witt: You need to wrap up.

John Clark: Well, we're going to do that. My family and I have owned property on Galley Hill Road since 1960. My wife and I and our 2 children have lived here for 30 years. Until march of 2013, none of the uses proposed in this development, would be allowable in the former rr zone, without ZBA approval. Within five short months of the new Zoning Law taking effect, Ms. Tai sent John Fuller to the Planning Board to preview this project. And now, little more than a year after the adoption of the new zoning, Mr. Fuller is asking the ZBA to over look the obvious multi-family requirement of this development. Nowhere in the zoning does it provide percentages of a development as criteria for favoring one requirement over another. I have been in the construction material supply business since 1984. My job has taken me throughout New York State on projects ranging from remodeling, to residential new construction to large commercial developments. I never knew of a code official in any municipality to say, the first floor complies with code, but the second one does not. Close enough. If any floor does not comply, any part of structure, site or materials used does not comply, the project doesn't comply. Plain and simple. The board should affirm the fact that the project is subject to multi-family requirements, and I urge you to do so tonight. The plan as shown presents a host of issues that the ZBA should consider, because you're looking at this going blind, I have some pictures.

Dan Witt: Sir, I asked you to wrap it up.

John Clark: You going to have somebody else come up?

Glen Plotsky: I have a feeling that a bunch of people are going to waive their time to this gentleman. So, why not let him finish his letter and maybe we'll make copies of it and let you all read it before you go.

John Clark: Yeah, I got at least three people, and it's not going to take as long as you think. So, here's the things that I'd like you to consider. Because this is real important. Mr. Plotsky made it sound like "oh, this is only two little things that they're asking for", no. This is the war right here, right now. The ZBA is the war. Because if you turn around and make an interpretation and just say, "oh, it's not multi-family", he's got it made. He's got it made. So please listen. Impervious surfaces increase runoff onto adjacent properties, wetlands, Lake Helen and eventually into the Neversink River. I would like to ask you a question, if I can. Has anybody been on Galley Hill Road in the last six months? Any of you folks? Okay, so you're aware of it. You've been on the upper end on (Route) 211? Okay, so you've seen it. Thank you. The 7 acres on the southeast side are filled with trees, shrubs and grasses. They filter and absorb and direct much of the runoff from an elevated railway and through federally designated wetlands on the map, until it reaches Lake Helen. The estimated impervious surfaces are shown as 42%, and I'd certainly like to see how that's determined. I'm not exactly believing that today. My belief is that it's much more. We have over 46" of rain per year, and we know that an average full grown tree can take in 100 gallons of water per day, up to 2" and 3" of rain, and it's appropriate tonight, that it's raining so hard. Because this is a wooded lot, filled with hundreds of trees. And it also requires that they look at a 25 year storm calculation. Which again, will probably go in front of the Planning Board. The negative effect on groundwater. I can tell you straight out that I know that Gary Butler had to drill a new well. There are seven houses in this area. And we're now going to take, what conservatively, is estimated at 15,600 gallons of water a day, out of the ground and then we're going to run it through a sewage treatment plant and into wetlands. That's what the plan is. Now, his calculation, I think, is quite low. He's got a three bedroom apartment, and he's counting 110 gallons per bedroom. And I'm going to assure you that it's going to be a lot more than that. I think that the total consumption is going to be closer to 25,000 gallons per day. Soil conditions increase the threat of flood erosion. He put on the application, soil designations SXC 7.46 acres and AC at 1.29. I won't bore this board with what this all means, I found out what it all means. But I'd like to ask him how those calculations were done.

Glen Plotsky: They came from the Building Department.

John Clark: They would have the actual map of where that portion is, Okay, thank you.

John Fuller: It's online.

John Clark: It's online, thank you. Now, the soil, we won't go into any of that. But I do call into questions, the calculation for sewer treatment plant, based upon actual metered water usage in the City of Port Jervis. I figure a lot of it is estimates, he talks about estimates for parking, and uses some reputable resources to figure out how many parking spaces. Well, we have the City of Port Jervis as metered water. And they use 128 gallons per person per day on average. Not 110 gallons per bedroom. It's 128 gallons per person. Now given the likelihood of a three bedroom apartment to house six individuals, not just three, the water usage doubles to 660 gallons per day,

and potentially the accumulative effects spread over 35 apartments, would result in an increase of water usage drawing from wells and flowing through the treatment plant of an additional 10,000 a day. An average of just less than 15 gallons per minute will flow from the sewage treatment into wetlands into Lake Helen. Now, if anybody's been up there, it's hard to see it now, because the new property owners don't cut the property like Warren Cuddeback did, but it's a pristine lake, there's a lot of wildlife, there's fish, turtles, birds and every year we get Canadian geese back and forth, and now we're going to start putting a huge amount of water into that. Now, increased traffic, noise and light spillage to surrounding properties. The current road consists of mostly single family homes, a bedroom community, active during morning and early evening, quiet and serene at night. Well, the commercial use described, and the proposal, shows hours of operation until midnight, for the restaurant or restaurants. Ninety cars expected to be there until 12 a.m. Some ninety cars. Disturbing residents in adjoining properties. We're going to have light spillage, we're going to have noise, 100 plus parking lot will be visible to adjoining neighbors. High density, this is really equivalent to about 50 houses. And I look back at the old Code, and I look back at what the Planning Board used to have, and how at one point, they were talking about making it 5 acres for a single family home. Well, we've got a grand total of 8.75 acres, and buildable, where this is going, this is about an acre and a half. So, now they own it. We're down to six, and they want to put an equivalent of 50 houses in there. Okay. That's really what it is. The wishes of one don't outweigh the rights of many. And that's something that I was taught when I was a kid. We live in a town, a community inter-connected and inter-dependent. Seven families live close to this proposed development, and many more live along the road, past this section, to reach Route 211. And the right of Ms. Tai to develop her property is not in dispute, not at all. But the extent and scope of her proposal definitely is. There's no hardship created by dis-allowing a project of this scope, and ruling on what the zoning says in the zoning book. Her \$60,000 investment and 8 and a half acres, 8 and three quarters acres, could certainly be turned into into 2 and 3 single family houses. She has alternatives that would protect and preserve the rights of all landowners, provide for privacy of family residences, promote the safe and efficient provision of sustainable woodlands, preserve the natural and scenic qualities of open land, and allow for the orderly development of property for the greater good of the town. And if this sounds familiar, it's taken from the paragraph of intent, in the new Zoning Law, enacted in 2013. Word for word. And it should guide this board, as well as the Deerpark Planning Board in all its' decisions. So, okay I'm going to sum it. All right. I'm going to use up less time than probably most people. This is what's proposed, you've got 8.75 acres of rural land, it's devoid of many town services, such as public water, public sewer, drainage culverts and street lights, it's out of context within a neighborhood of single family homes, it's on a local tar and chip road, not designed to handle increased traffic and set on an odd plot of land, juxtaposed between railroad property, wetlands and a pristine lake. And it all makes for an ill-conceived urban development project. This is not appropriate for hamlet mixed use, it's not. Now I have a copy, that I have to pull out, give me a second, of an e-mail that I want to present to the board. One second. Okay. It was sent to me by Kelle Williams, she's the Senior Property Agent for Norfolk Southern Real Estate, a division of the Norfolk Southern Railway, they're the owners and operator of the rail lines adjoining 491 Galley Hill Road. "I contacted Norfolk Southern on August 18th to inform them of this evening's meeting. I felt it necessary to contact them, when I found out that the certified letter purported to being sent to all adjoining property owners, was not received by John and Cathy Parlier. I reasoned that if John and Cathy did not receive a certified letter mailed ten miles away in Port Jervis, maybe the Norfolk Southern Railway in

Roanoke, Virginia did not get the letter either. Ms. Williams, at Norfolk Southern, unable to attend this meeting on short notice, asked me for information on the proposal and I forwarded cell phone snapshots of this plot plan.” She responded by saying, I quote “Mr. Clark, the plans are blurry, but from what I can see they will be developing extremely close to the property line.” Well an important note here. Board members should note that the setback shown on Mr. Fuller’s plan is 35’, he did mention that 100’ is multi-family and if you look at it. And I took my scale ruler, and we all have them. It takes out this whole section of buildings right here, okay, on their property line. So, Ms. Williams continues her text message to me. “Still without clear plans that I can show the engineering department, I won’t be able to provide you a formal response. I will however, state that I too am concerned with the plans as shown and the proximity of development as relates to the railroad corridor. You are welcome to say you have connected with someone from NS, Norfolk Southern, who has expressed concerns over the preliminary plans of the project. Signed Kelle Williams.” And I would like to hand this out to the board members tonight. Her contact information is on there, if you want to call her. I’m sending her updates on this, I did tell her how she can get copies of the plan. Do you need one sir? Mr. Fuller? So, I’m going to sum up and get off of here. The application before you asks for several things. First an area variance if Article 4, Section 230-6A is strictly enforced. I would like to make public the responsibilities of the ZBA in making this determination. And that’s for the people here, not you, you obviously know. The ZBA shall consider the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. They may also consider whether an undesirable change will be produced in the character of the neighborhood. Whether the benefit sought by the applicant can be achieved by some method. Whether the requested area variance is substantial. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Whether the alleged difficulty was self created. I can tell you right now, somebody drew this up, it’s a nice drawing, but it’s somebody’s vision, it doesn’t mean that it has to be built. From the perspective of adjoining neighbors, the answer is yes to all of these. The change is undesirable, more cars, more traffic and noise, the project can certainly be downscaled or re-done. The spread of 95 parking spaces, one way or the other, is substantial, it’s over 45% greater in number. Adverse impact on road traffic. The difficulty is self-created, Ms. Tai seems to stretch the limits on this relatively small parcel, and maximize buildings and parking on the site. Mr. Fuller is asking the ZBA for an interpretation of multi-family as it pertains to this project. What he is actually seeking, is a ruling that is tantamount to giving Ms. Tai a use variance. If you interpret that this is not multi-family, you give them a use variance, now the setback is no longer 100’, it’s now 35’. The ZBA is bound by the Zoning Law, which states that “No such use variance shall be granted by a Zoning Board of Appeals without showing by the applicant that applicable regulations and restrictions of this law have caused unnecessary hardship.”

Glen Plotsky: Sir, now you’re overstepping your bounds.

John Clark: I read that out of your zoning.

Glen Plotsky: I understand, if you want to talk about the hearing, don’t give legal advice, that’s my job.

John Clark: It's not legal advice.

Glen Plotsky: Just, please move on.

John Clark: Okay, since you don't want me to read the four requirements, and there are four.

Glen Plotsky: It's not a variance, you're arguing that it's a variance, but he's asking for an interpretation, it's not a variance.

John Clark: And I'm stating that, because the way he's asking it, that it amounts to be a variance. That's my determination.

Glen Plotsky: Fine. that's fine. You don't have to explain what needs to be required to get a variance.

John Clark: It's here, if you want to read it. The Zoning Law requires all of these, not 3 or 2 or 1 of them to be true, all of these must be proved by the applicant. I urge this board to affirm the clear and precise language of the Deerpark Zoning Law as it pertains to the definition and determination of multi-family dwellings. There's no ambiguity, multi-family applies, and I thank you for your thoughtful consideration, and I yield my time.

Glen Plotsky: Sir, do you have extra copies of your letter, or may we make them?

John Clark: Which letter, this?

Glen Plotsky: Yours.

John Clark: I'm going to give you that, I have copies for you. I have one for Mr. Fuller and one for the board, and I can always print up some more. Thank you.

Glen Plotsky: The next person on the list is Margaretann Clark.

Margaretann Clark: I yield.

Glen Plotsky: You defer your time, thank you very much. Looks like Gary Clark.

Greg Clark: I yield my time.

Glen Plotsky: Edward Murabitu.

Edward Murabitu: I yield my time.

Glen Plotsky: Marie Murabitu.

Marie Murabitu: I yield my time.

Glen Plotsky: This is really going to go fast. Cathy Parlier.

Cathy Parlier: Inaudible.

Glen Plotsky: John Parlier, same?

John Parlier: Yes,

Glen Plotsky: Linda Salvati.

Linda Salvati: I yield my time.

Glen Plotsky: Joe Salvati.

Joe Salvati: I yield my time.

Glen Plotsky: You know in a minute I'm going to have to give him more time. You know that right. Kelli Brink. Without question sir. And by the way, it was an excellent presentation, until you started arguing the law.

John Clark: I wasn't arguing, I was letting everybody know what it is.

Kelli Brink: Yes, I live at 479 Galley Hill Road. I'm not going to argue too many of his points, except for the water issue with the housing. Because single family, multi-family, based on their history and lack of truth telling, the house that was there, before it burned down, there are going to be way more than three people in each apartment, there are going to be way more than six people in each apartment. They've proven it time and time again, we've complained about it at Warren Cuddebacks' old house, it was a five bedroom house. Okay. Never explained the stuff in the front yard, or the sewer running across the road there. Okay. So, do I have a lot of faith in anything they tell me? No. However, in response, I happened to find by accident, the Town of Deerpark Zoning Law, the intent, "Article 1, the intent, to protect and preserve the rights of all landowners, to enjoy and make economic use of their property, without undue hardship" that's A; "F, to provide for the privacy of family residences. K, to safeguard against hazards and nuisances" I live right next door and my property sits lower, guess where all of the water is going. My well is in the front yard, my well is on that side of the property.

Jim Harrington: We're not determining that tonight.

Kelli Brink: I know. Parking. I don't care if you put five, I don't care if you put ten parking spots, when you blacktop that, the water has got to go someplace, it's going to be in my yard. We already have water issues that we've never had before, because the floodgate on the lake never gets open. We have flooded where we've never flooded. So, water is going to be a huge issue. What about the wildlife? You talk about ducks and stuff on the lake. I live right next door. I take great pleasure in sitting on my back porch and watching the bears, and the fox and the deer. There are mountain lions, and there are unfortunately, coyotes, because they ate my ducks. But it's part of the whole eco-system. And what is that giant blacktop area going to do to

that? It's going to destroy it. I realize that they have lots of power, lots of money, but the road is a huge issue. Now, I found out all of that stuff in doing some research on the road. The road in front of my house, which I measured from the base of my mailbox to the end, and 6 inches into my driveway is 19' wide. According to the DOT, New York State Department of Transportation, a lane, a single lane should be 9' with a 2' and 5" shoulder, so you double that for a 2 lane road. And that comes to 22' and 10", the requirement for a 2 lane road in front of my house. That road has never had a line on it for a reason, it's not a 2 lane road. Where are all of these traffic problems going to erupt? Is the next step eminent domain to take away my front yard, to widen the road? If they're going to have all of those stores and all of those houses, how are delivery trucks going to get there? How are they going to get all of that machinery there to blacktop? The road is 19' wide.

Glen Plotsky: Those are more concerns for the Planning Board, but please continue.

Kelli Brink: My concern is for my home. He touched on it briefly, about the hmu zoning. It's moderate to high density, and I get this from your zoning law, moderate to high density that is compatible to commercial, industrial use. How in God's name, is a 3 story building on a rural, one lane road compatible? How are 300 cars parked next door compatible? Not by any stretch of the imagination. Thank you.

Glen Plotsky: Patrick Cavanaugh.

Patrick Cavanaugh: I'll take my time with the Planning Board.

Glen Plotsky: Gary Butler.

Gary Butler: Gary Butler, 528 Galley Hill Road. With the magnitude of this building, covering 8 acres, the water you're going to have flowing off of there, into the ditch line, is going to be unbelievable, in any type of heavy rain, first of all. Second of all, setbacks have got to be 100', I've never seen an apartment complex being 35' off of the road. I mean, if something happens with a fire, with 35' you'd melt the road. It definitely has to be 100' back.

Dan Witt: Anybody else?

Glen Plotsky: Not on the list. What is your name?

Pat McMann: I'm Pat McMann. I really just want to say, I live on Horseshoe Bend Road, and what everybody else is saying, is the inappropriateness of this, I know that it's a law, and I shouldn't be saying it, but if you lived on this road, which is a beautiful rural road, and somebody was putting in Disneyland or something, you'd get a little upset. So, when I see this, it's just so inappropriate, You have O'Dell's down on (Route) 209, that's one store, and here they want to put in 27 stores, it just boils my blood. I'm sorry. Inappropriate or not, it's just wrong.

Glen Plotsky: Anyone else? Thank you.

Dan Witt: John, anything to add?

John Fuller: Well, obviously there were a number of things which were brought up, especially by Mr. Clark, which I think was very well presented and my compliments for your presentation. There were a number of things which were presented, and it was quite extensive, and I don't have the time tonight, but I would ask the board for an opportunity to respond to his comments. Some of it does apply, some of it does not, and I would welcome the opportunity to respond to that at a later date. Again, I just want to re-iterate, we're not asking for variances, we're strictly asking for interpretations, on how we are able to design the facility. You know, a lot of things were brought up, which are Planning Board matters, they are all legitimate concerns, and I appreciate that, but they are Planning Board matters. Projects of this magnitude have to follow very strict design guidelines and regulations that are imposed by the DEC, among many other agencies, and I am confident that the Planning Board will appropriately address all of those items at the applicable time when we are back before them. Again, we are strictly asking for an interpretation which will become the design basis, by which the project can proceed forward. There's some suggestion that I am asking indirectly for variances, that is not the case. But I would welcome the opportunity to respond in writing at next months' meeting, to some of the items that were raised tonight.

Glen Plotsky: Do you think you can get a written response within 3 weeks?

John Fuller: Absolutely.

John Clark: May I ask a question?

Glen Plotsky: Yes sir.

John Clark: If he's going to reply or re-but what I said, what's the public to get the information....

Glen Plotsky: Well, what I was going to suggest is that, if we can get a written response by a week before the meeting. That will be filed with the Town Clerk and the zoning office, so you'll be able to get a copy there. Are you recording this? Great.

Unknown: Smile.

Glen Plotsky: What's that? Oh, I always do, and I don't think I've said anything too terribly inappropriate tonight, so I'm doing well. Because there has been times..... Anyway, my thought would be Mr. Clark, that we'll try to get it, so that it's filed a week in advance of the next meeting, and that way the board members can review it, and the public can also have access to it. And I would suggest to the board that they continue holding this hearing open and not closing it, allowing for the possibility of entertaining verbal presentation at the next meeting, but certainly allowing for Mr. Fuller to submit a written response. And I was going to suggest, I believe that the third Thursday in September is the 18th. So, I was going to suggest that if Mr. Fuller can file his documentation on or before September 11th, that will give the board, myself, and any members of the public who chose to obtain a copy, seven days within which to review it. And

we're going to try to have Barbara prepare the minutes promptly, so that the other two board members can review the minutes, listen to the recording on the computer, and therefore, be in a position where they will be eligible to participate in a discussion and/or vote, when the board determines to do so. And just for information for the public, and Mr. Clark probably has done enough research to know this, but the board has 60 days after the public hearing is closed, within which to render a determination. So, I'm saying to you is even if Mr. Fuller submits his documentation on time, and even if it's determined that there's no additional input, except at the next meeting, there may or may not be a determination rendered at that meeting. So, please don't be disappointed or hostile if there's no determination rendered in September. So, that would be my suggestion to the board, Mr. Witt, it's up to you.

Dan Witt: So, the motion should be to hold the hearing open.

Glen Plotsky: So, the motion would be to hold the public hearing open with the understanding that Mr. Fuller will submit a written submission, on or before September 11th (2014) hearing to be held opened and continued at the September 18th (2014) meeting at 7:30 p.m.

Christa Hoovler: I'll make that motion, with whatever words that came out of your mouth.

Jim Harrington: I'll second that.

Glen Plotsky: Okay, so you need to vote on that motion then.

Dan Witt: All in favor?

Christa Hoovler: Aye.

Jim Harrington: Aye.

Dan Witt: Aye.

Motion carried.

Public hearing comments were finished at 8:34 p.m.

Public hearing to be continued on September 18, 2014.

Respectfully submitted,

Barbara Brollier
ZBA secretary