

DEERPARK PLANNING BOARD - APRIL 9, 2014 - PAGE #

-1The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, April 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	Craig Wagner	Steve Weiner
Theresa Santiago	Mike Hunter	Willard Schadt	

OTHERS

Mr. Glen A. Plotsky, Town Attorney	Mr. Al Fusco III, Town Engineer
Mr. David Dean, Town Board Liason	Mr. Alan Lipman, Esq.
Ms. Bathsheba Elkrslasi, Applicant	Mr. John Thibodeau, Applicant
Mr. Jamie Fedorick, Applicant	

THE PLEDGE OF ALLEGIANCEPEENPACK MEADOWS SUBDIVISION - # 03-0802

Represented by Mr. Alan Lipman, Esq. 294-7944

Owner/ Applicant is seeking a subdivision on property located off of Peenpack Trail, Huguenot, N.Y.

It is in the HMU zone.

Section – Block – Lot = 62 – 1 – 11 & 14

Applicant is seeking a 6 month extension for sections 1 & 2.

Board granted a six month extension on October 9, 2013.

Mr. Lipman said that he is here tonight to ask for a 6 month extension of the final approval, and has submitted a letter to the board explaining the reason for the request.

Mr. Plotsky said that one issue is that in 2010 N Y State proclaimed that because of the economic downturn, it would be appropriate for Planning Boards to allow for extensions for approval for 90 days, upon request. He said that at the Oct 9, 2013 meeting, this board had asked for a letter, providing the reason for another extension, if Mr. Lipman came back before this board to do.

Mr, Plotsky said that the second issue is that there is currently an outstanding balance on both the town attorney and town engineering escrow accounts. He said that since there is a different owner of the Peenpack Meadows property now, Mr. Fusco and himself will determine the outstanding balances, and if the outstanding bills do not go back to the time of the prior owner, then the balance can be paid within the next 90 days. He said, however, that if the balance goes back to the prior owner, then he would be willing to forget that former debt. He said that he did try to obtain the outstanding balances before the meeting tonight, but was unable to do so.

Al Fusco said that he is satisfied with the letter submitted by Mr. Lipman tonight.

MOTION

Vicaretti made a motion for a 6 month extension of the conditional final approval, conditioned upon the resolution of the escrow issues within the next 60 days. Santiago second. Roll call vote: Santiago, aye; Hunter, aye; Wagner, aye; Vicaretti, aye; Schadt, aye; Weiner, aye; Schock, aye. Motion carried

DEERPARK PLANNING BOARD - APRIL 9, 2014 - PAGE #ORANGE & ROCKLAND UTILITIES - #14-0101

Represented by Mr. Alan Lipman, Esq. 294-7944

Orange & Rockland Utilities is seeking Planning Board approval to create a temporary transformer substation and a new permanent facility on property located on Route 209 (near the Lock & Roll Storage Facility), Town of Deerpark, Orange County, New York.

It is in the HMU Zone.

Section - Block - Lots = 52 - 1 - 29.22 and 29.23.

Application received Feb. 12, 2014

Mr. Lipman said that this application will be pulled from the agenda tonight because it needs to be clear in the Town Ordinance that the Planning Board has authority to approve the application for the substation. He said that the text in the Ordinance is not quite clear concerning electrical sub-stations.

Mr. Plotsky said that in the Town Ordinance, the way that the definition of essential services is written, that they are permitted in the HMU zone with Planning Board approval, and because the cost of this project will be approximately ten million dollars, then the applicant wants to make sure that their type of use is one of those essential services, so it's a matter of re-phrasing perhaps one sentence in the definition of essential services. He said that the Town Board will take up this matter, being that the project is going to be so expensive. He said that it may be just a matter of creating a Local Law to change the definition in the definition section of the Zoning Law.

The Town Engineer did submit a technical memo, dated April 9, 2014, and it follows:

1. We have discussed with the Planning Board Attorney that the HMU allows for essential services which allows for the construction and maintenance of underground, surface, or overhead electrical, gas, telephone, water and sewage collection systems along with normal accessory activities.
2. The previous request to the Building Department for a temporary substation included a plan for a future permanent substation which is the subject of this review. The decommission of the temporary substation should be part of this review.
3. Our office did not receive updated plans but will promptly review any future plans.
4. Submittals should include all items listed within Article 7, 230-44 Site Plan Review.

Mr. Lipman thanked the Board.

MESSIAH CHAI INC. - # 13-0507

Represented by Bathsheba Elkrslasi 672-0325, 672-3228

Owner/ Applicant Messiah Chai Inc., is coming before the board for a special use permit for a sign, a synagogue and a new accessory building on property located at #30 Shinhollow Rd., Town of Deerpark, Orange County, New York.

It is in the NR Zone.

Section – Block – Lot = 53 – 1 – 96.1

Application submitted May 23, 2013

Public hearing was closed on January 22, 2014

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Al Fusco referred to his technical memo, dated April 9, 2014:

1. The applicant to provide access to proposed building for occupants and fire access.
2. As per previous comments: Since this structure's use is to be a dormitory in nature, a septic design needs to be submitted. This septic design should specifically list the amount of capacity for the primary residence and the dormitory use. Provide deep and percolation testing on plan with all calculations.
3. Applicant to provide bulk table and setbacks.
4. As per previous comments: Proposed building is large, per zoning, for a 20' proposed side yard setback. In the NR Zone, the building must meet the setbacks of a principle residence, if larger than 1,000 square feet. This principle, side yard setback would be a minimum of 35'. Please adjust the setback accordingly and show dimensions of building.
5. Provide handicap access to the proposed building.

Al Fusco said that in regards to the last submittal, the applicant needs to supply some type of access to the proposed building, because it's still just labeled as a proposed building. He said that he does know that it will be a dormitory situation, where people may stay just one night a week. He said that a separate septic system needs to be supplied for this separate building, as it may hold as many as 20 people overnight. He said that he needs to be provided with deep testing and perc testing and all of the calculations that go along with that. He said that a bulk table needs to be provided on the map, because it will show setbacks, side yards, rear yard, front yard, because another structure is being added onto this piece of property, which is larger than the accessory use, listed in the Zoning. He said that the setback has to be at least 35'.

He said that a handicapped access to the building still needs to be shown on the maps.

Ms. Elkaslasi said that she thought that at the last meeting she got the comments, and now these new plans do show those comments, and they have been addressed with this new drawing.

Al Fusco answered that these are not new comments tonight, but are the same issues as at the last meeting.

Ms. Elkaslasi asked Mr. Fusco if he had spoken to her surveyor, Mr. Weeden?

Al Fusco answered no, he didn't speak with him, but maybe Mr. Weeden spoke to someone in his office. He said that Mr. Weeden did supply several of the items that were on the last memo, but he did not supply the issue with the dormitory, and the Zoning has not changed, so she is still 20' from the side yard. He indicated where the dimensions are still the same on this new plan. He said that at the last meeting he had said that the proposed building does need to be identified as a dormitory on the new plan.

Ms. Elkaslasi questioned the need for a new septic system, as it will be a very limited use overnight.

Al Fusco said that 20 worshippers there for 4 or 5 hours, is different from overnigheters, who will need additional facilities, as per New York State standards. He said that overnigheters are there for a longer duration, and are there overnight.

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Mr. Plotsky explained that if you were only dealing with people who drove there during the week for a couple of hours, versus people who arrive before sundown on Friday and stay till after sundown on Saturday, they are going to be on the property for 27 hours, or thereabouts, and New York State regulations are clear. He said that it is not this Board's intention to keep the applications to do, what they want to do on the property. He said that the way the applicants' surveyor drew the building on the plan, based on the scale, this is why on the drawing it looks like 1,200 square feet, even though Ms. Elkaslasi is representing the building as 1,000 square feet or less. He told Ms. Elkaslasi that she has to have her engineer change the size of the building on the drawing and/ or include language saying that that building will be no more than 9,900 square feet. He said that the septic issue has nothing to do with the size of the building, but it has to do with the 27 hours that the people are going to be on the property.

Ms. Elkaslasi repeated again that her engineer did place everything on this new map that the Board asked for, at the last meeting.

Al Fusco said that no, these issues are still open, have not been done, and the map does not include them. He referred to his February 28, 2014 memo, which states the same issues that is on tonight's memo.

Willard Schadt asked how can this be resolved, as the applicant has done everything that she was asked to do. He said that it should be made clear to the applicant exactly what still needs to be done, so she does not come back again, with information still lacking on her plans.

Al Schock said that surveyors do not do septic designs, and the applicant needs to get a professional engineer to design a septic system.

Mr. Plotsky said that in February 2014, Mr. John Fuller, a civil engineer had provided the board with a letter/ report regarding the septic, indicating that the existing system may work. He said that however, looking at the New York State standards, Mr. Fullers' report may not be correct, and he needs to confirm that the existing septic system can handle Ms. Elkaslasi's family plus 20 other people who will be staying overnight, using the loads that are set forth by New York State and using their charts. He said that if it does, than that will resolve the issue, without having a new septic design submitted. He said that if it won't handle that, then there will be a need for a new septic. He said that the tie-in to the existing septic has to be shown on the map, and verified, so that no one will drive their car over it.

Al Schock expressed his opinion that houses are not normally designed for 20 people overnight, and he said that he does not believe the existing septic to be sufficient. Ms. Elkaslasi said that there is a misconception, and she believes that only 4 or 5 or 6 will be there overnight.

Mr. Plotsky said that on the plan, on the bulk table, in the notes, it says "maximum occupancy, family plus twenty" and that would give the applicant the ability to have 20 additional people staying overnight. He said that if they only have the need for 5 people to stay overnight, then it would have to be itemized on the plan, so that if a citizen were driving by the property on a Saturday, a year from now, and there were 10 cars on the property, then they could come to the Building Inspector and say that Messiah Chai is in violation of their plan, because they have more than 5 adults in addition to the family on the premises. He said that this board is not telling Ms. Elkaslasi that she cannot have more than 5, but if she intends to have 20, the board needs to know that the septic can handle them. He said that she needs to be fairly accurate in terms of how many people she's going to have at any given time, so that the Board knows what the loads are. He said that it's all about knowing that she has enough area and functionality to be able to handle what she intends to use.

Al Schock suggested that Ms. Elkaslasi contact John Fuller, the Civil Engineer, and have him contact Mr.

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Fusco, and find out exactly what needs to be additionally placed on the map.

Mr. Plotsky suggested that Ms. Elkaslasi take the March 17, 2014 and the April 9, 2014 Town Engineering technical memos and this latest plan to Mr. Fuller, to make the changes, and then, if needed, to Mr. Weeden, and they can make the changes. He added that if there are any other questions, they can also contact he, himself.

Steve Weiner told Ms. Elkaslasi that there needs to be details on the map, especially concerning the maximum occupancy of the dormitory, and the proposed use, and the distinction between overnight and weekly daytime visitors. The Board and Mr. Plotsky and Mr. Fusco agreed.

Al Schock told the application that when the new maps are submitted, she will be placed on the next agenda.

JOHN THIBODEAU - # 11-0201

Represented by himself 754-8612

Owner/ Applicant John Thibodeau is seeking a lot consolidation on property located

at 989 Route 209, Cuddebackville, N.Y.

It is in the HMU Zone.

Section - Block - Lot = 22 - 1 - 38.1 & 84

Application submitted March 18, 2014

Mr. Thibodeau said that he had purchased the adjoining property and is planning on combining the two. He said that subsequently he has purchased a small piece (.3 acres) from the Neversink Valley Museum, which is in the RR zone. He said that that small piece needs to be changed to the HMU zone, so that he can combine it to the other two. He said that he will build a stockade fence and fix it all up so it will be aesthetically pleasing.

Mr. Plotsky asked Mr. Dean if he believes that the Town Board would be amenable to an actual zoning change, to allow for an expansion of the HMU Zone, back to the portion that Mr. Thibodeau would then own, rather than sending him to the ZBA?

Mr. Dean answered that he cannot speak for the other Town Board members, but he himself would be fine with it, and the Town Board would certainly take a look at that.

Mr. Plotsky said that if the zone is changed, it will make it easier for the applicant, that he can combine all of the lots and it will just be one application before the Planning Board.

Mr. Thibodeau said that the purchase of the Neversink Valley Museum piece is still in progress, but as soon as he officially owns that piece of property, he will be back before this Board. He showed on the map, where the piece of property is, that he is purchasing, and showed where he will move the existing building, and make the entire back property for parking, and stockade it. He showed a small piece that he owns off of Hoag Road, which he said he would like to donate to the Town. He said that this will not become a junkyard, and as soon as he receives titles to the cars that he tows onto the property, the State allows him to get rid of them. He said that no car will remain on the lot for more than 6 months. He said that the front of the property, along Route 209, will be a used car lot, and the property will all be fenced in.

Theresa Santiago asked about lighting?

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Mr. Thibodeau answered that he will install dusk to dawn lights in the front, and will also have lighting in the back.

Bob Vicaretti asked about plantings?

Mr. Thibodeau answered that on the Westbrookville side he has pine trees, and he will buy others which will go all along the property around the back, which borders Neversink Valley Museum, and will also be on the Neversink Valley Museum property also, and they will also be around the side to the gate, although he will not enclose the used car lot with trees. He said that in approximately 5 years the trees will mature.

Bob Vicaretti said that those have to be placed on the site plan.

Willard Schadt said concerning the septic and septic field, that with the back parking of approximately, no more than 60 cars, he said that it looks like the access is going to be over the connection between the septic field and the septic tank, and it looks like it will be driven over.

Al Fusco said that in looking at the site plan, there are seepage rings for the septic tank, and those are the type that can actually be driven over.

Mr. Thibodeau agreed and said that he has used them for years and has been driving over them for 35 years. He said that in showing the location of the septic field on the maps, and that is where the rings are. He indicated on the map where the septic line is located, and said that the septic tank is a 4,000 gallon tank, because it was built originally for a bank, which was previously located at this location on the property.

Mr. Plotsky said that even though the applicant has permission, he still cannot plant pine trees on the Neversink Valley Museums' property. He said that whatever the applicant is proposing, it has to be on the applicants' land.

Mr. Thibodeau said that he understands.

Al Schock asked, does he have to have screening?

Mr. Plotsky said yes, but it doesn't necessarily have to be trees.

Mr. Thibodeau said that he will donate the trees and the Museum can plant them on their property, next to his fence screening.

Mr. Plotsky said that in conferring with Mr. Fusco, it says in the zoning law, 230-16 (f), page 20, that there is the possible requirement that there be a 20' buffer strip between the paved parking area, and an adjoining property line, and said that if the Board agrees, this is under the section for parking, loading, access and traffic standards, talking about off-street parking, loading and unloading facilities, that might be required to be provided. He said however, that he does not believe that what the applicant is talking about using, is what this zoning section contemplates, therefore, he does not believe that the 20' buffer of planting is required, and therefore, the applicant can build the fence, and can donate the trees for the Museum property, if he wishes.

Mr. Plotsky said that the applicant must only keep the vehicles less than 2 months, because if he goes over 2 vehicles for over 6 months, that are unregistered, than that is considered a junkyard.

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Mr. Plotsky said that to move this application along, is for Mr. Thibodeau is to continue his pursuit to purchase that third lot, and contact the Town Supervisor to speak before the Town Board with a view toward having that zoning line shifted to incorporate the new lot, so it will all be in the HMU zone. He said that then once the applicant has purchased the lot and if it has been changed to HMU or if not, he goes before the ZBA for a use variance for that small portion, and then he comes back before the Planning Board and address any more concerns that the Board may have, relative to site plan approval.

Al Fusco referred to his technical memo, dated April 9, 2014:

1. The applicant is asking for change in the Zoning, from an RR Zone to HMU Zone. This would need to have Town Board approval or Zoning Board approval for a use variance.
2. The survey indicates that a 0.389 acre parcel will be acquired from Tax Lot 85. If the applicant receives approval for the zoning change, he then should submit an actual subdivision/ lot line change that shows the entire area of Tax Lot 85, the consolidation of the three parcels and also a description of the remaining lands of Tax Lot 85, so that a new deed for Tax Lot 85 can be filed in the Orange County Clerk's Office. The subdivision shall meet the plan submission and review requirements in Chapter 200, Subdivision of Land.
3. The site plan indicates that the entire 1.885 acre parcel is to be used as a used car lot and an impoundment lot. Please provide a Stormwater Pollution Prevention Plan for this application.
4. Submittals should include all items listed within Article 7, 230-44 Site Plan Review.

Al Fusco said that the 3 lot consolidation will be handled by this site plan application, before this Board, not the Building Department or the Tax Assessor.

Mr. Plotsky said that he would receive the "descriptions" from the applicants' engineer, and his office will create the deeds.

Willard Schadt asked how does the applicant buy a piece of property that is not separate yet?

Mr. Plotsky answered that he believes that if both of the owners sign off on an application, the lot line can be shifted for Mr. Thibodeaus' current lot, to absorb that .3 acres, and it would not impact the conforming nature of the other lot, and will not really affect anything. He said that this would be preferable rather than a subdivision, that a lot line change can be done, as long as both owners sign off on it. He said that this cannot be done until after the closing. He said that the applicant will have to do a lot line change application before this Board, then this Board would grant that, and then the applicant can buy it, and come back before this Board to do the lot consolidation and site plan as one application. He said that therefore, the applicant would have to do two applications.

Mr. Thibodeau thanked the Board.

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Represented by himself and Linda Fedorick

Mr. Fedorick said that he wishes to combine 3 lots into one, a lot consolidation, on property located off of Main Street, Sparrowbush. He distributed maps to the Board members and Town Attorney and Town Engineer.

Mr. Plotsky said that the problem is, that it will end up being a .83 acre lot, which is non-conforming, so as a result it cannot just be approved by the Building Department and the Tax Assessor. He said that on the other hand, the Planning Board has determined previously that on a lot consolidation, the Planning Board does not have to refer it to the ZBA, because it's becoming less conforming, and is therefore desirable. He said that although originally, if it's a non-conforming lot, the Planning Board sends the applicant to the ZBA, this is the one exception to that rule, where it's being made substantially less non-conforming. He said that if the Planning Board was doing a lot line change, where it would create two non-conforming lots, or where one of the lots would become more non-conforming, that would be a problem where the applicant would have to go before the ZBA. He said that this is a situation where the Planning Board can authorize a lot consolidation, and without the need for a public hearing, and the applicant just refer the maps and deeds to the Town Engineer and the Town Attorney respectfully, and then it can be filed in Goshen and done. He said to Mr. Fedorick that the reason he is before this Board tonight, is because, under the Law, although the single lot that he is creating is substantially larger than the three that he is combining, even the resulting lot is non-conforming, and that could've resulted in a concern by either the Building Department and/or the Assessors' office, in terms of them just saying, yes, it seems to be okay.

Al Schock asked, how can consolidating three lots, make it more non-conforming?

Mr. Plotsky answered it doesn't.

Al Schock said that if you consolidate lots, then it never makes it more non-conforming, it's always going to become less non-conforming.

Mr. Plotsky said that because of the recent zoning change by the Town Board, that gives permission for the Assessor and Building Department to do consolidations, without the Planning Board. He told Mr. Fedorick that he needs to first go to the Building Department and they will walk him across to the Assessors' office, and they will say yes, and the lot consolidation will be done.

Mr. Fedorick thanked the Board.

APPROVAL OF MINUTES - MARCH 26, 2014

Santiago made a motion to approve the minutes from the March 26, 2014 meeting. Wagner second.

Roll call vote: Santiago, aye; Weiner, aye; Hunter, aye; Vicaretti, aye; Wagner, aye; Schadt, abstain; Schock, aye. Motion carried.

EXECUTIVE SESSION

Hunter made a motion to go into executive session to discuss the Dragon Springs Buddhist, Inc. litigation at 8:38 p.m. Weiner second. Roll call vote: Santiago, aye; Weiner, aye; Hunter, aye; Vicaretti, aye; Wagner, aye; Schadt, aye; Schock, aye. Motion carried.

Hunter made a motion to come out of executive session at 9:18 p.m. Weiner second. Roll call vote: Santiago, aye; Weiner, aye; Hunter, aye; Vicaretti, aye; Wagner, aye; Schadt, aye; Schock, aye.

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Motion carried.

ADJOURNMENT

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

Meeting adjourned at 9:20 p.m.

Respectfully submitted,

Barbara Brollier, secretary