

Town of Deerpark Planning Board – April 22, 2015

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, April 22, 2015 at 7:00 p.m. at the Deerpark Town Hall, 420 Route 209, Huguenot, NY. The following were present:

BOARD MEMBERS

Bob Vicaretti, Chairman

Willard Schadt

Theresa Santiago

Mike Hunter

ABSENT BOARD MEMBERS: Craig Wagner, Steven Weiner, Tom Faggione

OTHERS

David Dean, Town Councilman

Alan Schock, Town Councilman - Board Liaison

Glen Plotsky, Town Attorney

Al Fusco, Jr., Fusco Engineering for Town

Johnny Zhou, Dragon Springs, Inc.

Kaijin Liang, P.E., Dragon Springs, Inc. Consulting Engineer

Pledge of Allegiance

HUGUENOT ESTATES - Glen Plotsky explained they filed an application. They had a pre-app and the person who appeared isn't the person appearing now, so they are handing out the copies of the application and documentation that has been submitted so the board can look at it before the next meeting. They could put it on the agenda for the May 13th meeting.

DRAGON SPRINGS BUDDHIST, INC. – MEDITATION HALL AND 10,000 SQUARE FOOT ADDITION

APPLICANT: Johnny Zhou

Johnny Zhou asked for the Meditation Hall being changed to a dormitory and also the 10,000 square foot addition to close the public hearing and for approval. He also asked for the Wastewater Treatment Plant and the Music Hall to move forward and set up a public hearing.

Bob Vicaretti stated he had submitted new plans that were updated.

Johnny Zhou said that actually the Meditation Hall to Dormitory and 10,000 square foot building site plan is before the public hearing. The update to the site plan he submitted two weeks ago for the Music Hall and the Greenhouse and also he submitted the update for the Wastewater Treatment Plant.

Bob Vicaretti said they had three updated plans before them and one is for the Wastewater Treatment Plant, one is for the Music Hall and one is for the Greenhouse (Atrium).

Johnny Zhou said he had tried to call to withdraw the application for the Atrium.

Al Fusco, Jr. stated he had not seen anything for that.

Glen Plotsky explained that the difficulty, which he also explained to them in a meeting, is that they are allowed to have as many applications before the board as they want at one time. It does create a lot of confusion and one of the things he was concerned about was when an application is paired with another, like the Meditation Hall and Wastewater Plant then changed to Meditation Hall with the 10,000 square foot building. That application proceeded to a point where they had a Public Hearing, it was held open for written submission, and his records suggest that the public hearing was closed on March 25, 2015. That would require the Planning Board to render a determination by May 26th, which is one day before the 2nd meeting in May. So, either the Planning Board has to make a determination at its next meeting, if not tonight or the applicant will effectively have approval before the May 27th meeting because they have a requirement, unless they waive time. Since the first application was filed and then withdrawn and replaced with the one that had the Public Hearing, there have been two applications filed: one involving Greenhouse or Atrium and one involving the Concrete Slab to Music Hall and most recently there has been a submission of a site plan for a Waste Water Treatment Plant. He asked what was being requested to withdraw.

Bob Vicaretti replied the Atrium.

Glen Plotsky asked the applicant if it was being withdrawn like they are never going to pursue it or they will withdraw and pursue in a month once something else is finished.

Johnny Zhou said they have never done anything like that yet.

Glen Plotsky confirmed with the applicant that they have submitted plans and an application and an environmental form. He expressed his concern that there have been between three and five applications that have been filed. He didn't know how many application fees have been paid. If the applicant withdraws the application, the engineer has already done work on it. As far as he is concerned that fee is gone and can't be transferred to something else. At the last meeting, he suggested his original application for the Waste Water Treatment Plant had a conversion to Dormitory, basically that filing fee be withdrawn or transferred or something. He thought somebody should figure out how many application fees have been paid to the Planning Board and how many applications they currently have open—and if they owe the town money. He said it could be in the minutes that it is withdrawn, but if it comes back, it has to be a new application. With regard to the other applications, the Waste Water Treatment Plans were received earlier that week and the other two files have been kicked around and they may be ready to start discussing them. With the Meditation Hall conversion to Dormitories and the 10,000 square foot building, which is the furthest along in the process...at the Public Hearing in that regard, Frank Ketcham spoke and provided approximately 7 photographs. He has had those photographs duplicated and provided them to the four board members who are present and the two Town Board members present, the town engineer and he has a copy. The original set is in the file. There is one picture that was accidentally superimposed on TOD stationery. He also gave a copy of the photographs to the applicant for two reasons: it was fair and because they asked for them. The Cuddebackville Fire Department wrote a letter asking for access to the site so they would know what to do if they were called to the site, including possible rehearsals and the like. He didn't recommend approval be given to the applicant until such time as they know exactly what the Fire Department would want in terms of access and frequency and numbers of personnel and vehicles. He also thought it would be a really bad idea if the board approved the plan prior to the Fire Department Commissioner's request to at least be on site one time. It is his recollection at the end of the last meeting, discussion about the Planning Board doing a site visit. The board's indication was they would not approve anything until they had a site visit. Mr. Plotsky went on to say

that he met with the property owner and representatives and a question about how thorough that site visit would be. He communicated that he thought the desire of the Planning Board was more a matter to understand the details on the site plan, like when you look at a site plan and see a small rectangle that says existing building. What does that translate to? He said that doesn't translate well for him and probably not for the members of the Planning Board. He thought their desire was to just get a handle on what is up there building wise. He deferred to the Planning Board as to whether they want access inside the buildings.

Bob Vicaretti replied that they are not building inspectors and he thought the consensus of the board was just to see ... like the Music hall being just three sided ... they had never seen that and that was their contention. They were not going to look at outlets and sprinkler heads. They want to see the property regarding the improvements so they get an overall feeling of size or locations so when they look at the site plan map they have a little better idea. He agreed with the attorney that they have no idea or concept of what the indications are for size on the site plan. They would go individually or as a group.

Glen Plotsky recommended against going individually because one board member may see one thing on his visit, another member may see something else or not see something, etc. If they are all there at the same time, they would have a commonality in terms of what they were discussing. That doesn't stop the board from making those arrangements if that is what the applicant will allow. He deferred that to the Planning Board and his job was to determine if what they require is legal. He has to make sure everybody was playing by the same set of rules.

Bob Vicaretti said that May 27th was the day after their Planning Board meeting. They will have to have some kind of extension anyway. They will miss that meeting by one day.

Glen Plotsky added that they do have one more meeting between now and then.

Bob Vicaretti said they want to move this along as quickly as possible. In that respect, all this ties into the May 27th deadline. He spoke to the applicant that the sooner they can get their visit on the book, it will be better for them.

Johnny Zhou said that personally he would like to invite the board for a site visit. He talked to the Attorney and Supervisor Spears and Councilman Dean on Monday and said he can't say yes and he has no reason to say no. But, he believes it is the Chinese/eastern culture and the western culture and they don't communicate well and it creates a gap between Dragon Springs and the Town of Deerpark. Because of the past, he didn't think because of their culture, that the trust was built up yet. Some of the board members at Dragon Springs feel that since last September to that day, they know the lawyers, engineers and Planning Board have done a good job. He is in the middle between his Dragon Springs Board and the town and he has a difficult situation to move forward. The board does not authorize him to allow a site visit because he doesn't have approval for three months. The board does not authorize him to do things and they think he does not do the right job. He said they have 4 applications, but one was withdrawn, so they have 3 applications before the Planning Board. They still have the Music Hall, the Waste Water Treatment Plant on the application. He asked for approval for the 10,000 square foot and the addition and the dormitories. He tried to set up this time for the Planning Board and he is not trying to make a deal, but actually he is in the middle of a difficult position and he respects it. He tried to work with the board and if he doesn't fulfill the promise for a site visit, then they still have another two applications coming up.

Glen Plotsky said he wanted to understand what was being said. He clarified by saying, “right now you’re withdrawing the Greenhouse Application and you have three applications pending: The Meditation Hall walk to the dormitory with the 10,000 square foot building, the Music Hall and the Waste Water Treatment Plant.”

Johnny Zhou said that was correct.

Glen Plotsky added, the application with regard to the Greenhouse and the Parking Lot and the Fire Pump—that is all being withdrawn.

Johnny Zhou said no. The fire pump and parking lot are still needed and the application for that ...

Bob Vicaretti said they didn’t have a site plan or up to date site plan. If they do, the applicant needed to tell them which one.

Al Fusco interjected that the fire pump and the parking lot are a part of the Greenhouse Application.

Glen Plotsky said that was not going to work. Then, he clarified that what the applicant was saying by stating as part of each and every application someone before him signed a site inspection authorization. However, he cannot give that to the town now because his board won’t let him. But, if the Planning Board grants the Meditation Hall to Dormitory change and approve the 10,000 square foot building that they built after stipulation of settlement said it wasn’t on the plans—without a building permit initially—without seeking Planning Board approval and in clear violation of that Federal Court stipulation...you say give me those two things and I’ll do my best to give you a site visit. But, if I don’t give you a site visit then you still have two other applications that you’ll be considering that you can try to get a site visit for. Is that pretty much what you’re saying?

Johnny Zhou said that is not the point he tried to say.

Glen Plotsky agreed that was probably not what he tried to say. He was asking him if that is what he said.

Bob Vicaretti said that was what they heard.

Glen Plotsky said they have one more meeting before they make a decision, before there is an automatic default. It sounds clear to him that at this point, he doesn’t know if the Board wants to ask for the applicant to grant them additional time to consider it, which would give him additional time to give them a site visit or not grant it. He said they have one more meeting before they have to make a determination. There are only four of you here he said. It would probably be better to have more Planning Board members present when making a determination. They could put the matter over to May 13 meeting that is within the first 62 days after the Public Hearing was closed and perhaps they’ll have more information from the Fire Department by then. Perhaps they’ll have a better understanding as to the position on the site visit. Perhaps the applicant will be in a position to say, yes I can give you an extension to the 62 days or no I can’t. He can assure the board and he will remind the applicant, because he met with him and his lawyer the day before...that his legal advice on May 13, 2015, unless the applicant has provided the information the Planning Board has requested, which includes the site visit—he believes the Planning Board would be putting itself out into a dangerous location by granting approval.

The board all agreed.

Glen Plotsky continued to say make the decision on May 13th. The applicant is saying give us the approval and perhaps we'll give you more information. He said he told the applicant the day before it doesn't work that way. They need the information in order to grant the approval. He doesn't have a vote, he just gives legal advice. He thought their meeting was not going anywhere. If the Board wants to hear something from the Engineer on the environmental information provided by the applicant or 239 GML review, or just wait until May 13th.

Bob Vicaretti said to be fair to the applicant, they have two things to discuss in regards to all applications. One is the fire department...that is a very important role in the process for approval of whatever they are going to do up there. They need an emergency management plan before they approve anything. With that in mind, they received a second letter dated April 5, from Darryl Ward (Commissioner of the Cuddebackville Fire Department) which he then read. A copy of the letter is in the file.

Willard Schadt asked to verify if there had been a site visit by the Fire Department yet.

Bob Vicaretti confirmed they have not. He then explained how a visit is customary with large buildings.

Glen Plotsky said there are two forms in the application: one is the site inspection authorization, which this applicant signed; and the second is that they are not supposed to approve anything unless the fire department signs off on it. The top is filled out, but it is not signed off by anybody. That is in response to that inquiry.

Bob Vicaretti said also by state law they need something called an operating permit application. One of the last items on the punch list says "places of public assembly with occupational load of 100 or more persons, an operating permit is required for any place of public assembly that has an occupant load of at least 100 persons. This operating permit is required to assure that the life, safety, fire protection systems are maintained through applicable requirements." He said he didn't know if they filled it out, he offered to give it to the attorney. He believed that had to be part of the application because the state mandates it. It has to do with any commercial application.

Glen Plotsky said he had never seen that.

Al Fusco said they did require occupancy information for those reasons. They didn't get a positive response back. They got a response in regards to the Music Hall of the occupancy saying that it was for training, they didn't expect people to be in it. He still requested that occupancy, because that might be now, but 10 years from now it might be different. The number of 100 is the magic number in that regard. He said the DEC had spoken to Fusco Engineering and the NYS Department of Environmental Conservation does have a request from Dragon Springs for expansion of the dormitory property from a Meditation Hall to a Dormitory, which is going to require more septic. And they have that. They also have information of the beginning of a sewage treatment plant. One of the things they intimidated to him, was they believe that the numerous applications is segmenting the SEQRA process, which is not preferred. Also, that the DEC will not continue to review the applications until they perform SEQRA. It is sort of a chicken and an egg. They are not going to approve anything until the SEQRA is approved by this board. They have to be acceptable to the idea of these projects before the DEC will complete their review. If they give their approval, it would be subject to a permit. He would need to review the approval and suggest that it met the condition of the approval. He mentioned that to the applicant and towards that end, they submitted a new expanded EAF, which he had comments on. There were no major concerns, but eight items needed to be identified. He gave a copy to the board. Since then, they've had comments

regarding a withdrawal and these will need to be adjusted for that as well. His recommendation is that they look at this SEQRA in relationship to one document. He suggested they combine all projects for SEQRA or for review purposes. Also, the plans call for a second parking structure that is not listed. If they pursue that, it needs to be listed in the EAF. In general, he suggested three dates for a Planning Board site visit and agrees with Glen that they pursue this quicker rather later. They also have the issue of an extension. He agrees wholeheartedly that pre-planning with an emergency management plan is adhered to and available and the Fire Department was going about that in a proper way and should be pursued. They need the occupancy. He concurs 100% with Glen that the avenue of approach is to move this over to the next meeting and hopefully they'll have the extension in a time frame and a date on the 27th for a site visit.

Bob Vicaretti asked the applicant if he had any more to say, acknowledging he is stuck in the middle. They need the Planning Board site visit. He said he doesn't know how many would actually go, but they need that availability from his organization. They'll need to table this until May 13th. They'll make a motion on that. He encouraged the applicant to go back to his organization with their requests.

Johnny Zhou asked if these needed to happen in April.

Bob Vicaretti said these need to happen by the May 13th meeting. If they can't do it in the next two weeks, they won't do it the two weeks after.

Johnny Zhou asked who to contact and they told the applicant to contact the engineer.

Willard Schadt asked to make a couple comments. Speaking to the applicant, he said he was annoyed to hear his comments because the Fire Department requested a visit three months ago. He asked for the size of the buildings and was told two stories, the picture reflects six stories. The fire company will need ladder trucks. This board represents the health, safety and welfare of the community...not the applicant. He said the applicant has students, musicians, visitors and he doesn't want to see in the newspaper where 20 or 30 people die in a fire because the fire truck couldn't get there. They are looking out for people coming to their site. Anybody that looks at this and doesn't think they need a fire management plan is crazy. The reason they want a site visit is because if it were not for the public hearing, and somebody providing pictures, they would not have seen this. That's why they have to see the site. The business about conflicted patience in delaying this with the fire company and is a little annoying.

Glen Plotsky mentioned that the exceptionally tall building is actually not occupied. They discussed which building in the picture Willard Schadt was referring to.

Willard Schadt said anything like this needs a county map and a fire map. You need companies with ladder trucks involved and a serious plan when they're going to have students. He said you have secondary students there.

Bob Vicaretti said on the site plan maps, that elevation is for the addition and is actually a 60 foot roof height on the site plan.

Willard Schadt said he understands, but as mentioned earlier reading the site plan and seeing a picture makes a big difference. The problem is they were submitted at a public hearing.

Motion to Table Dragon Springs Buddhist, Inc. Applications Until May 13th Meeting

Motion by Michael Hunter, 2nd by Theresa Santiago to table Dragon Springs Buddhist, Inc. applications until May 13th meeting.

VOTE: 4 AYES: Theresa Santiago, Michael Hunter, Willard Schadt, Bob Vicaretti

3 ABSENT: Craig Wagner, Steven Weiner, Tom Faggione

MOTION CARRIED

DICKS INDUSTRIAL PARK PRE-APPLICATION

ENGINEER: Al Fusco, Jr., Fusco Engineering

Al Fusco gave a brief history of how the Town Supervisor and Board have been marketing properties in the Town of Deerpark. Towards that end, they put together brochures and with the Orange County Partnership, they came up with some shovel ready property to help cut down unemployment in the area and stimulate some commercial industrial growth to reduce some of the residential taxes to have it off set by some commercial industrial use. It is a two-edge aspect. One is to get some help with taxes and create jobs in the area. Using a large map, he described the property and potential use:

Access: Dick's Concrete Plant is the current location of this proposed park and access is currently out to Route 209, and they also have access through the City of Port Jervis. The primary access in the Town of Deerpark is where the existing road is now. The bridge is wide enough. They will do a traffic study to show what the increase flows could be if they had certain kind of businesses.

Wetlands: The wetland areas that flood or are wetlands that cannot be utilized.

Sanitary Sewage: Conversations with the City of Port Jervis about supplying water to the site were positive. The city can't provide sewage because the sewage treatment plant in Port Jervis is going through New York City or the NYS Department of Environmental Protection and they cannot expand the City of Port Jervis to outside customers. It has to be onsite at this point. Depending on the use, this is all gravel banks so there is plenty of percolation rate, so a septic could be put on a 10 acre parcel and they could handle it on site. In addition to that, they have shown that a sewage treatment plant could be approved by the DEC. They would approve one on an intermittent stream, which is flowing through the property.

Parcels: This could also be divided into a number of lots. One had 7 acres, and one had 9 and it is showing how it could be divided.

Phase 2: It also shows a potential access to a Phase 2 where they are working on the face of the quarry now. The next aspect of it is archeological work. They will use a DEC mapper to identify if there are archeological or historical significance on the area. They would approach the State Historic Preservation and one of the things on this site is it is totally disturbed, so all the top soil is stripped off. If it was, it is now long gone.

Habitat: A study would be done to see what the wildlife is there. Obviously there are a lot of birds and it is the country, so bears, deer, rabbits, etc. That needs to be looked at.

The entire package will be looked at and they'll ask if this can be utilized for the uses intended as an industrial park or can't it. They would review, have a public hearing and those answers would be

forthcoming in a subsequent document. At a point down the road the board would have answers to all their questions and make a decision if this site is suitable for an Industrial Park. If eventually they say that, then this becomes a shovel ready site.

They will make a formal application in the next month and if anyone has any questions or wants to visit the site, he will help them.

Theresa Santiago asked if any of this property was in the City of Port Jervis.

Al Fusco replied there were lots in the City of Port Jervis. There are 14 acres in the City of Port Jervis currently zoned residential. They have indicated to him that they would approach the City of Port Jervis to make that part of the industrial area also. He is just discussing the Deerpark property.

Theresa Santiago asked how close this property was to the old city dump.

Al Fusco said it was adjacent to it and described it with the map. The County has its transfer station.

Bob Vicaretti asked with that being industrial property, do you need to do a Phase 1 and a Phase 2 study on that.

Al Fusco said they would do a study when it gets site specific and they get ready to build something.

Willard Schadt asked if they were soliciting interested parties yet or are they waiting for the town to take it a little further. He asked which comes first.

Al Fusco answered they are waiting for the town to take it a little further and get some interest in it. At that point, they would approach the partnership to try to send people this far over the mountain. He mentioned that Warwick had a project like this and made the property shovel ready and this has spurred the Town of Deerpark to ready the property so when an interested party appears they are prepared.

Willard Schadt asked more specifically what else the town has to do to put them in a position so they can start looking for people.

Al Fusco said they could look for somebody now, but this gives them a leg up on somebody else in another part of the state or Pennsylvania, or wherever. It makes it a little more enticing.

Willard Schadt asked what more does the town plan on doing before the owner starts doing something.

Al Fusco said this is it. The owner is paying for the work. They are going to do an environmental impact statement. If the board says yes, this looks like a good site then this aspect has been done. A portion of the SEQRA has been completed.

Bob Vicaretti asked if there was any other business before the board.

Councilman David Dean asked the board to support what Al Fusco just shared with them. He said the sooner they get a conceptual approval for this, they could market this and get it going.

Willard Schadt asked how it works with access with the City of Port Jervis and Deerpark.

David Dean said the front of the property is zoned in Port Jervis as residential. That's where those apartments. But the main entrance will be off 209, that's where it is safe.

Bob Vicaretti said that would be part of the DIS to access because they have 40 trucks and trailers a day going to the point. That's part of the traffic study anyway.

Al Fusco said there was a lot just off the bridge they purchased and that can fit into the picture as well. Ryan Street will still be an emergency access.

Willard Schadt added that Ryan Street is not good for truck traffic like that.

Bob Vicaretti said once that is advertised and you go through DIS and Port Jervis gets involved, with the public hearing on the project...

Motion to Adjourn at 8:22 p.m.

Motion by Theresa Santiago, 2nd by Michael Hunter to adjourn the meeting at 8:22 p.m.

VOTE: 4 AYES: Theresa Santiago, Michael Hunter, Willard Schadt, Bob Vicaretti

3 ABSENT: Craig Wagner, Steven Weiner, Tom Faggione

MOTION CARRIED

Respectfully submitted by,

Kathy Basile