

**TOWN OF LIBERTY
PLANNING BOARD MINUTES
November 3, 2009**

MEMBERS PRESENT

Diane S. Deutsch, Chairman
Ray Kelly
Lynn Dowe
Dean Farrand
John Van Etten
Peter Stettner, Alternate
Denise Birmingham, Alternate

ABSENT

ALSO PRESENT

Walter F. Garigliano, Town Attorney
Mark Van Etten, Building CEO
See attached sign in sheet

CHAIRMAN DEUTSCH CALLED THE MEETING TO ORDER AT 7:05 PM.

**ON MOTION MADE BY DEAN FARRAND AND SECONDED BY JOHN VAN ETTEN,
THE BOARD UNANIMOUSLY APPROVED THE MINUTES FOR OCTOBER 6, 2009.**

PUBLIC HEARING:

Bernard & Ruby Davis
Special Use Permit
Cooley Road
SBL 6.-1-25 & 50
Zone: RH #2007-0082

Four notices were mailed out, two green cards received and two outstanding. Chairman Deutsch asked if there was anyone from the public who had a comment or question regarding this project.

No one appeared.

**ON A MOTION MADE BY LYNN DOWE AND SECONDED BY RAY KELLY, THE
PUBLIC HEARING WAS CLOSED. ALL IN FAVOR. APPROVED.**

PUBLIC HEARING:

Moses Blau
Special Use Permit
245 Ferndale Road Unit #40
SBL: 41.-1-9.8
Zone: RD #2009-0031

Twenty-three notices were mailed out, sixteen green cards received, one returned and six outstanding. Chairman Deutsch asked if there was anyone from the public who had a comment or question regarding this project.

No one appeared.

ON A MOTION MADE BY DEAN FARRAND AND SECONDED BY JOHN VAN ETEN, THE PUBLIC HEARING WAS CLOSED. ALL IN FAVOR. APPROVED.

Bernard & Ruby Davis
Special Use Permit
Cooley Road
SBL 6.-1-25 & 50
Zone: RH #2007-0082

Bernard and Coreyshay Davis appeared for this project. They had a fire back in 2007. They were before the Board in December of 2007 and have now done everything that was suggested by the Board. The only concern of the County is that the road be either used or the applicant should "restore vegetation to the bed of the existing gravel drive, if it is to be abandoned." The applicant stated that they were going to be using that gravel drive as their driveway. After a short discussion it was determined that all conditions of approval had been met.

ON MOTION BY LYNN DOWE AND SECONDED BY JOHN VAN ETEN, APPROVAL OF THE SPECIAL USE PERMIT WAS GRANTED. ALL IN FAVOR. APPROVED.

Moses Blau
Special Use Permit
245 Ferndale Road Unit #40
SBL: 41.-1-9.8
Zone: RD #2009-0031

Jack Tompkins appeared for this project. The applicant wants to remove the deck, put in a 15 x 24 extension/addition and then replace the deck. It will be on piers and closed in. The 239 review was received from County Planning stating that after review they believe this project is a matter for local determination. This project does not need SEQR as it is a Type II project.

ON MOTION BY JOHN VAN ETTEN AND SECONDED BY LYNN DOWE, APPROVAL OF THE SPECIAL USE PERMIT WAS GRANTED. ALL IN FAVOR. APPROVED.

OLD BUSINESS:

Kelly Bridge Developers Corp
Special Use Permit
Kelly Bridge Road
SBL: 40.-1-1.1
Zone: RD #2009-0027

Glenn Smith appeared for this project. A new owner has purchased the property. He was here at the last meeting with basically the same drawings, 95 double wide mobiles but some of the homes were closer than the 25 foot separation between the decks and the homes, they spread them out and made changes. That little loop roadway goes down a little bit and everything meets that 25 feet separation. Glenn wanted to show this and get the Board's blessing before he added grading plans and utility plans and everything else. Those are the only changes so far. Nothing should be less than 25 feet apart.

There are three wells drilled on the property that were tested, sewer treatment plant from the DEC and storm water approvals. The SWPP will be modified a little bit but not too much it will have to go back to the DEC for approval.

Glenn is proposing that the road behind the residential lots be 2-way the rest of the road is a one way. The directional signs will be given to the Board.

John Van Etten brought up the issue of the path crossing the road twice and asked if there was some way to do it differently by the wetlands. LOUD NOISE ON TAPE.. he also said he thought it might be a good idea to put a couple paths across residential areas so that people wouldn't have to walk the roadway around and putting actual paths would keep it from being muddied. Glenn agreed that it was a good plan.

Attorney Garigliano believes it meets all the set-backs but before Glenn does anymore additional design work it should be sent to Tom Shepstone for to make sure he doesn't have some concerns before the applicant spends a ton of money on the SWPPS. Chairman Deutsch said she thought Tom Shepstone might also have questions about the one way crossways and things like that on the roads, like having a road one way around. It might be questionable. Attorney Garigliano said he thought Tom Shepstone might be okay with the roads because the one in the middle went both ways. And that if there was an emergency, one could go wrong way on the one way if the other ways were blocked. More discussion was held concerning the roads and their direction. It was determined that this project will be sent to Tom Shepstone.

Dean Farrand mentioned the wetlands. Attorney Garigliano said that there is no buffer on Army Corps wetlands. After a short discussion it was determined that Glenn leave approximately 10 feet buffer before the wetlands as a precaution against fluctuation of said wetlands.

The flare of the entrance was mentioned. Dean Farrand said he wanted to understand how deep it needed to be if it needs to be 50 foot wide to get trailers in and out. Glenn Smith said it depends on the radius of the flare it's pretty much set on the radius of the flare and where it hits the side of the road and how far back it takes you, there's really no minimum. Glenn Smith said he made that flare bigger because at the last meeting Dean Farrand said there was some question he had about the roads and intersections, but could not find the note he'd made on that. Glenn said he thought the flare size might be the issue Dean might be referring to.

This project is to be sent to Tom Shepstone for review.

52 Liberty Inc./Save-Rite
Special Use Permit
1885 Route 52
SBL: 30.-1-76.1
Zone: IC #2009-00261

Bill Sattler appeared for this project. The 239 review was received from County Planning stating that after review they believe this project is a matter for local determination. County Planning had forwarded it on to NYS DOT. A letter from the NYS DOT was included in the County's response to the Board. NYS DOT's letter stated they had no concern, but that if the applicant did any work in the NYS highway zone, they would need a permit to do so. Bill Sattler said they wouldn't be doing any work on or near the highway. All criteria has been met.

**ON MOTION BY JOHN VAN ETEN AND SECONDED BY DEAN FARRAND,
APPROVAL OF THE SPECIAL USE PERMIT WAS GRANTED. ALL IN FAVOR.
APPROVED.**

NEW BUSINESS:

Laurie Dutcher
2 Lot Subdivision
137 Castle Hill Road
SBL: 13.-1-34.1
Zone: RD #2009-0032

Laurie Dutcher appeared for this project. After a short discussion wherein the proposed property lines were established, it was determined that this project should have perc and pitt tests run, preferably where the proposed dwelling will be located on the new lot. Laurie is to provide new maps along with perc and pitt results for the Board by the submission deadline for the next meeting.

William Foster
2 Lot Subdivision
Cutler Road
SBL: 38.-1-36
Zone: AC #2009-0033

Steven Green appeared for this project. Chairman Deutsch recused herself from discussing this project. Member Lynn Dowe will act as Chairman.

After a short discussion it was determined that Mr. Green will need to do the map with the road and topography shown on the map. He said he would try to do so. It was conveyed to him that if he doesn't have the road and topography on the map, the Board won't approve it. It was also determined that if Mr. Green can get the maps into the Secretary of the Planning Board in the next couple days, the Board would schedule a public hearing before the next scheduled Planning Board meeting, if the date didn't fall too close to the regularly scheduled meeting on December 1st, since the applicant wanted to expedite the process. Attorney Garigliano read SEQR.

ON A MOTION MADE BY JOHN VAN ETEN AND SECONDED BY RAY KELLY, A NEGATIVE DECLARATION WAS DECLARED ON THIS PROJECT. ALL IN FAVOR. APPROVED.

Dee Dee's Cottages, LLC
Special Use Permit
Old Liberty Road
SBL: 5.-1-36.1
Zone: RD #2009-0034

Elwin Wood and Tom Ward appeared for this project. After a short discussion, it was determined that the cider press is to produce no more than 25 gallons per hour maximum. Mr. Wood said that the cider would be used for the public at his facility only, not for sale off the site. Attorney Garigliano read SEQR.

ON A MOTION MADE BY JOHN VAN ETEN AND SECONDED BY DEAN FARRAND, A NEGATIVE DECLARATION WAS DECLARED ON THIS PROJECT. ALL IN FAVOR. APPROVED.

This project is to be sent for 239 review. To be scheduled for a public hearing on December 1st. If the Will Foster project comes back at an earlier date, then this project can be moved ahead as well.

Williamsburg Mobile Home Corp. ("WMH")

Special Use Permit

NYS Route 55

SBL 40-1-28

Zone: RS #2006-0047

Mark Van Etten, Code Enforcement Officer asked to speak about this matter.

Mark Van Etten ("Mark"): There seems to be a little bit of controversy on the, how far it should go. One is the chain link fence. There was a fence, sorry I don't have the full map with me.

Stanley, the representative from WMH ("Stanley"): I do Mark.

The map was spread out on the conference table.

Peter Stettner: Oh, okay, across from the old red barn?

Mark: Yes. There is a fence that goes across the parking area here and around the full park. There I believe, Stanley, am I correct, they are four (4) units from full build out. You're missing four units?

Stanley: Missing six (6).

Mark: Six, okay.

Attorney Garigliano: There will be 18 in total right?

Stanley: Total, 12 are built.

Attorney Garigliano: And what is the name of the park?

Attorney Garigliano and Stanley discussed the name of the park in Hebrew.

Mark: The question was that this fence that goes around the boulevards, cottages is not in place yet. The controversy is that Randy Wasson is believing that that was optional. Because they had the fence across here. But it does show it on the map. My interpretation was that was put in, and I remember some conversation from this Board, that was put in to keep the cars from parking directly into the units. So that was a necessity that was needed to be put in prior to CO's.

Attorney Garigliano: All we're going to be able to do is to get Nancy to print us old minutes right?

Stanley: I have a copy of the minutes.

Attorney Garigliano: All of them?

Nancy: Mark has a copy too.

Mark: I have a copy and the controversy is that this is when it's talked about the fence, is this the required fence or is this also included in the fence.

Attorney Garigliano: Certainly, I can only speak for me, when I was talking about the fence, it was all the road, but there may have been...

BOARD MEMBER SPEAKING TOO SOFTLY

Attorney Garigliano: Exactly.

Chairman Deutsch: I do remember discussion about no letting people park by the units.

Attorney Garigliano: Right, but that could be curbing, that could be anything. Right?

Chairman Deutsch: I don't think we talked about curbing, I just remember talking about keeping people from parking along the units. I don't remember specific...

Attorney Garigliano: What does it say in the minutes?

Nancy: The minutes aren't clear...

Mark: The minutes aren't clear, that's why I'm coming back to you.

Stanley: We did address the parking and we made adequate parking in the front.

Chairman Deutsch: Our concern was that people tend to be a little bit lazy sometimes and they would maybe drive around the service road and park there to drop their groceries or whatever and then just leave their cars there.

Stanley: I'm just saying there is a lot of room between the units and the service road also. And they do have a regular paved parking lot over here. Over here there's no pavement, there's just the gravel road.

Dean Farrand: This is the drawing we approved.

Mark: Yes.

Dean Farrand: With a four foot high chain link fence on the drawing the day we approved it.

Mark: Yes.

Chairman Deutsch: Yes.

Several Board Members: Yes.

Stanley: I have a letter from Wasson Engineering if I could please read it. "In response to your question regarding the fence shown on the approved plan of the above-referenced project, I would note that fencing is typically optional when it is not required by the Planning Board. We showed fencing in a reasonable location which was approved by the Board in the event you decide to install it. The Board did not require you show a fence on the plan." This is what he said. He also told me that no mobile park or no development requires you to have a fence around the development or the park.

Attorney Garigliano: So let me understand what you're asking. The fence along the road, and I'll go back and look at the mark-ups, because we have mark-ups of the maps from meeting to meeting with little notes on them. I know the fence along the road was required.

Stanley: Ok, that's a no brainer because that's the...

Attorney Garigliano: But the other fence is shown there and you're going to have to build it unless you come back to this Board and take it off the map and come up with some other logical way for people not to park next to the units.

Mark: These parking spaces were, are designed here, they were installed over here which makes this egress almost impossible. Two of these spaces have to be removed and have to be put over here.

Stanley: Okay.

Mark: And we had that discussion too and you were thinking only one.

Stanley: For the amount of units, which we have built, which is 12 currently, we have approximately 30 parking spaces even if we remove those parking spaces, we still have over 30 spaces. We're only required to have two spaces per unit.

Attorney Garigliano: When you 18, you're going to have to have 36.

Stanley: Right.

Mark: But you have all of the pads for the units in place, you're only missing the homes, so therefore the site plan is built out minus the homes. Therefore your parking spots and your fencing should be in place. As well as, I know the shul is not completely finished yet, but there is a dumpster back there that could be, that should be also in place.

Stanley: So that's another question that we have, is do we need to build a dumpster behind the shul, even though the shul is not completed yet.

Mark: It's 90% complete.

Stanley: But we didn't get a CO for it yet and we only have 12 units.

Mark: And you're not going to get a CO unless the site plan done.

Stanley: The question is.

Dean Farrand: I'll only speak for myself. When I look at a drawing, I'm approving the drawing as it's drawn...

Attorney Garigliano: If you want to do something else, you've got to tell us I want not to do X, I want to do Y instead, that's all.

Dean Farrand: ...if the fence is there, I'm expecting the fence to be built, if you want something changed, you've got to come back in front of this Board and have it changed. This is what we approved, this is what we expect to have on site. That's my opinion, there's other people in the room, but that's my opinion.

Attorney Garigliano: It's not an opinion, that's what was approved. If you want to do something else, tell us what you want to do.

Stanley: Okay, the question is, is a fence a requirement for a park.

Lynn Dowe: If it's on the plan that was approved.

SEVERAL TALKING AT ONCE

Attorney Garigliano: You didn't listen. The fence wasn't a requirement, what was the requirement was something around there to keep people from parking there. So if you want to do something other than a fence, you've got to tell us what you're proposing to do.

Stanley: Okay. Even though the minutes aren't clear on the parking.

Attorney Garigliano: The site plan is clear. You're not...the minutes aren't what's approved, sir, the site plan is what's approved.

Stanley: Okay. Even though the engineer says that the reason why he put the fence over here...

Attorney Garigliano: He put the fence because the Board asked him to put something around there to prevent people from parking by the units. Am I crazy or do other people recall?

Dean Farrand: Exactly.

Several other Board Members, agreed.

Attorney Garigliano: Okay, so the fence was a solution that the engineer proposed. If you want to propose some other solution, that's fine. You'd have to come back here and propose another solution. When I say it's fine, the Board may say it's not okay, but you're confusing the approval of the minutes and the approval of the site plan. The site plan is what's approved, you've got to build what's on the plan. If you want to do something else, that's fine. The head's up we're giving you is, don't come in and propose I want to take the fence away and do nothing, because that wasn't acceptable the first time. So, it's unlikely since no one's been fired, that it will be unlikely...

Stanley: I reviewed the minutes, I didn't see any place that it says that the fence that the fence was required.

Nancy: It doesn't have to.

Stanley: It doesn't have to, okay.

Attorney Garigliano: The minutes are not verbatim minutes. I remember the discussion about the parking and I think the solution to the discussion about the parking was the fence. Does everybody agree that's what happened?

Several Board Members agreed.

Attorney Garigliano: Okay. The parking along the units. The idea is to force people to park in the parking spaces, not let people park here. Without the fence, there's enough room along here for people to park a car here. You understand? So we said, gee we don't want you to do that, we don't want you to pull in between the units, this is the parking, this is where you're supposed to park. So the question was how are you going to prevent people from parking either here. I have a map that has these two same boxes, I'm not sure it's by unit 18 and unit 17, but I know we have the same. So the solution proposed is we'll put a fence around. If you want to propose a different solution, that's okay. You could put a curb, you could put a whatever. A row of big wheels.

Stanley: Bushes or something. Shrubs.

Nancy: You're going to have to re-apply with a new application, right?

Attorney Garigliano: They're not going to have to apply with a new application, but they're going to have to come back and ask for it to be amended.

Nancy: Okay, with a new map.

Attorney Garigliano: With a new map.

Stanley: Okay.

Attorney Garigliano: Unless I'm...

Chairman Deutsch: No, it's exactly as I recall.

Dean Farrand: That's the conversation.

Attorney Garigliano: That's exactly what happened.

Mark: That's what I recalled in enforcement.

Stanley: Okay, the other question is, is this required if we, if the shul is not built yet, it's not functioning and we just have 12 units and we just would like to make this one dumpster and then when the shul is finished, put in the other dumpster also.

John Van Etten: It's 250 feet.

SEVERAL TALKING AT ONCE

Dean Farrand: What is the scale here, one inch equals 30 feet.

Further discussion on the dumpster issue. It was determined that due to the distances in the park, both dumpsters would have to be in place whether or not all units were in or whether or not the shul was completed.

ON A MOTION BY RAY KELLY AND SECONDED BY DEAN FARRAND, THE MEETING WAS ADJOURNED AT 8:30 PM.

Respectfully submitted,
Nancy Saucier, Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Liberty's Planning Board from a meeting held on November 3, 2009 are not to be construed as the final official minutes until so approved. X Approved as read