

**October 4, 2012  
7:15 PM**

**Petition #447**

**Darling / Gauthier  
Deanna Drive Subdivision Extension**

PRESENT: Dennis Mead, Chairman  
Joanne Bonsack  
Tracy Hirsch  
Beverly Kent  
Kathy Prackajlo  
Bethany Pryor

ALSO	Kelly Vacco	Deputy Town Attorney
PRESENT:	William Ferguson	Code Enforcement Officer
	Thelma Faulring	Secretary to the Boards and Committees
	Dana Darling	Project co-applicant
	Joe Gauthier	Project co-applicant
	Sean Hopkins	5500 Main Street Williamsville Project Attorney
	Ron Yormick	Deanna Drive
	Marian Schiralli	Deanna Drive
	Michele Kern	7784 Boston State Road
	Glen Kern	7784 Boston State Road
	Mark Matyas	6444 Willow Drive
	Marianne Matyas	6444 Willow Drive
	Bob Iovenitti	6390 Deanna Drive
	Cherie Iovenitti	6390 Deanna Drive

(PLEASE NOTE: The new recording system did not work as hoped. These minutes are not verbatim as usual. All speakers will be noted, but comments may not follow.)

Mr. Mead opened the meeting at 7:15 PM and asked for a roll call of the members. Attendance is noted above.

Mr. Mead introduced Mrs. Vacco, Mr. Ferguson and Miss Faulring to those in attendance.

Mr. Mead opened the Public Hearing at 7:16 PM.

Mr. Mead read the Public Hearing Notice and the SEQR review received from Town Engineer James Hannon – ‘there is no significant impact to the environment; and no further action with respect to SEQRA is necessary or recommended.’

Mr. Mead asked the applicant to come forward and state his reasons for requesting a variance and reminded everyone in attendance that this Public Hearing is only to discuss the variance for lot depth..

Sean Hopkins – Law Firm of Hopkins and Sorgi

- I am here on behalf of Dana Darling and Joe Gauthier co-applicants of this project
- They plan to build as intended
- Some of the lots have a depth of 125 feet
- They are not asking for any side, front or rear variances

Mr. Hopkins came forward and distributed to the Board member the original subdivision map

- It was an approved subdivision in the late 1960’s
- Known then as Starlite Gardens Subdivision
- Dana and Joe would now like to build that subdivision as was planned
  - Except that today’s lot depth Code requirement is 175 feet
- Square footage of the lots is 15,000 square feet which meets today’s Code requirement
- There are more stringent wetland provisions than before
- This is just the first step
  - They will have to go the Planning Board with a Preliminary Sketch, go through the entire subdivision process and finally obtain Final Plat Plan approval
  - The Subdivision process also requires a Public Hearing
- This evening we are here only for the lot depth variance

Mr. Hopkins discussed the Balancing Test and Five Criteria from NYS Town Law Section 267-b(3)(b)  
(Mr. Hopkins distributed copies to the ZBA members and Mrs. Vacco)

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the requested area variance.
  - a. No there are no detriments
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance.
  - a. Was previously approved and met that criteria
3. Whether the requested area variance is substantial.
  - a. This is what was there previously and that was met
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
  - a. Mr. Hopkins distributed copies of the SEQR Negative Declaration Notice of Determination of Non-Significance dated June 19, 2012
5. Whether the alleged difficulty was self-created.
  - a. Mr. Hopkins added that Town Law 267-b(3)(b) expressly states that the issue of whether an alleged difficulty is self-created cannot be utilized as the sole criteria in determining whether to grant a requested area variance

Mr. Mead: Are there any questions or comments from the Board?

Mrs. Bonsack:

- We are not attorney's up here...
- Our Counsel cannot come out and speak for us...
- How does this fit in the Comprehensive Plan?
- Who owns this property?
- Why can't you buy 100 feet from Boston Valley Holding and add that footage to this project?

Mr. Hopkins:

- First of all, you have very competent Counsel and she can speak at any time or at your request
- Mr. Darling and Mr. Gauthier have a purchase contract for this land
- The Master Plan does include this type of housing
- The other property, Boston Valley Holding, is a completely separate project
  - That project will include an emergency access road to Deanna Drive and vice versa
- This is the Five Criteria used throughout all of New York State.

Mrs. Bonsack: How did you get from 29 to 34?

Mr. Hopkins: A re-configuration of property.

Mrs. Bonsack: How big are the houses going to be?

Mr. Hopkins: 1200 to 1400 square feet. We could ask the neighboring property owners how big their homes are for comparison.

Several discussions followed between the neighboring property owners, Mr. Hopkins and Board members.

Mr. Hirsch:

Mr. Mead: I will now open the Public Comment portion of the Public Hearing (7:36 PM). Please come forward state your name and address and please remember that we are here this evening for the lot depth variance.

Marianne Matyas – 6444 Willow Drive

- Nobody understands this
- There are so many changes
- According to the applicant's letter (Mrs. Matyas read the letter)
- Mrs. Matyas read the letter from the ZBA Chairman

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Secretary Faulring: I do not have the capability to copy the larger sized surveys or whatever; I did explain in the letter, to the adjacent property owners, that the Topographical Survey submitted with the application was on display at the Town Hall and would be on display this evening and it is on the table at the back of the room.

Mrs. Matyas continued:

- I'm familiar with the Starlite Subdivision
- I wish the Schunk's were here
- The plans are confusing and congested

Mrs. Vacco: Once again, the subject matter to be focused on the variance...

Mrs. Matyas: I am opposed.

Ron Yormick – Deanna Drive: Is each lot 125 feet deep?

Mr. Hopkins: No, some have more depth. The variance request is for those that only have 125 feet in depth.

Ron Yormick: Will there be front yard setback variances?

Mr. Hopkins: They will try to meet all setback requirements.

Ron Yormick: But all the lots have 15,000 square feet?

Mr. Hopkins: Yes, which meets today's Code requirement.

Glen Kern – Boston State Road: (questioned about lot 25 and lot 26).

Michelle Kern: The drawing is not the same that was at the Town Board.

Mr. Hopkins: It is the very same.

Mr. Mead: At this time I will close the Public Comment portion of the Public Hearing (7:46 PM).

Mrs. Bonsack: I make a motion to table the matter until we are all on the same page and I want to see how this type of house fits in with the Comprehensive Plan.

Mr. Mead: I second. All in favor?

All were in favor of the motion to table.

Mrs. Prackajlo: I'll make a motion to adjourn for this evening.

Ms. Pryor: I'll second.

Mr. Mead: We're adjourned.

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Dennis Mead, Chairman

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