

# RECORD REVIEW

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— William Colavito

## Seven Springs

### Trump alters road rules, rescinds land gift

By ABBY LUBY

Donald Trump threw a legal curveball to the towns of Bedford and North Castle as he seeks to legitimize building a secondary emergency access route on the 213-acre Seven Springs property.

In the second review of Mr. Trump’s planned 15 luxury mansion development, the Bedford planning board last week responded to the new claim by Mr. Trump that he has certain rights to a road bordering his property. The claim was presented as part of the environmental impact statement (EIS) for the proposed subdivision.

The legal finagling was about what Mr. Trump described as his “rights” to pave a closed portion of North Castle’s Oregon Road, now a 12-foot-wide footpath. The presumed right to the road was stated in a letter from Fidelity National Title Insurance Company, which offered a new title commitment for the road. Fidelity is the parent company of Chicago Title, the previous title company for Seven Springs, which didn’t insure the road.

Present at the planning board review was attorney Peter Wise of DelBello Donnellan Weingarten Tartaglia Wise and Wiederkehr, LLP of White Plains, the fifth legal firm hired by Mr. Trump in the last 10 years to oversee development of the Seven Springs property. Mr. Wise was joined by Hal Goldman of Seven Springs, LLC, in Briarcliff Manor, and John Saccardi and Bonnie Von Ohlsen of Saccardi & Schiff in White Plains.

Planning board member William Colavito asked about the letter from Fidelity. “How did the title company, which is giving the insurance, come to the conclusion that the right exists? How would a third party come to that conclusion, when in effect it’s not stated?” While the title company was willing to insure title to one half of the [road] area, the other half is owned by the Nature Conservancy, said Mr. Colavito. “My question is, in the absence of an express grant by the benefited party to maintain the road’s use, where do you suggest that the right exists for you and your successors to do so?”

Mr. Goldman, in responding to Mr. Colavito, said, “That is part of what the insurance offer covers,” he said. “It’s the nonexclusive easement over the entire width. The policy is waiting for us to pay the premium.”

The language in Fidelity’s letter, which claimed the road was an easement, was vague, said Mr. Colavito.

“For example, it doesn’t say it’s an easement for ingress and egress, which is very odd,” he said. “Usually most statements about easements would state that. Secondly, it’s vague because there is no definition of how wide or how narrow the easement is, and it becomes

important when you are talking about the possible use of the area for a fire truck or emergency vehicle. I think that ought to be spelled out in some detail.”

In an unexpected move, Mr. Trump decided to withdraw his previously donated 30-acre New Castle parcel intended for open space. Bedford planning chair Donald Coe said the withdrawal of the New Castle parcel was a big change to the environmental impact statement.

“The New Castle piece, which was to have been left as open space and donated to the town, is now up in the air,” Dr. Coe said. “Because we are a contiguous town picking up vehicular traffic, it seems appropriate that the next generation of your EIS application include a phantom subdivision of how New Castle might be developed.”

“At present there are no plans to develop it,” said Mr. Wise.

Dr. Coe pointed out that a potential road through the New Castle portion of Seven Springs would go through Bedford. “That property never needed an access,” said Dr. Coe. “Now we have to look at it and consider ways to access the property if there is going to be some development. Mr. Trump has to make up his mind to donate it or not.”

Mr. Goldman told the board that there were business implications to creating a phantom subdivision. “Mr. Trump may still donate that as parkland sometime in the future,” he said. “If he is going to do that, he must never show a hypothetical development plan. We will get back to you.”

According to Bedford’s planning director, Jeff Osterman, reinstating the town of New Castle as a third co-lead agency along with Bedford and North Castle will be time-consuming and stretch out an already lengthy review process. The first review of the environmental impact statement took place last summer, but reviews of various subdivision applications for Seven Springs have been going on for a decade, since 1996. “Going from two co-lead agencies to three is a major event in terms of processing,” said Mr. Osterman. “We have to have a written co-lead agency agreement. Just the paperwork is time-consuming. Now the EIS needs to clarify the status of the New Castle parcel because it is vague.”

If Mr. Trump eventually gets approval for the emergency access road, it would run behind the home of Teri Burke, a resident on Oregon Hollow in North Castle.

“We built the house on the premise and the town’s very explicit promise that the road would never be open,” said Ms. Burke in an interview after the planning board meeting. “It’s on public record from two town board meetings.”

Ms. Burke said that the new road, which would connect to Sarles Street on the other side of the Seven Springs property, would decrease her property value. “Would you like a road in your backyard?” she said. “There are about 15 houses that would be affected by this [proposed] road.”

According to Mr. Osterman, changing a dead-end street is one of the most difficult scenarios for planning departments to grapple with.

“In this situation you have existing houses on a street that everyone presumes is a dead end,” he said. “If you want to connect it in some way — in this case you are talking about an emergency connection — everybody has already based their purchase and the way they live in their neighborhood on the fact that it’s a dead-end street. Now it may not be.”

Ms. Burke said that the decision about rights to the road will ultimately end up in a court of law. “You have to be very careful. Saying that he [Mr. Trump] wants to do this is one thing. Whether he is able to do it is another,” she said. “The decision is going to have to be judged in a court of law because property rights are at issue here.”

Two North Castle groups have responded to Mr. Trump's claim to rights allowing him to alter the road. The North Castle Open Space Committee and the Citizens' Campaign to Save Seven Springs have sent memos to both the North Castle and Bedford planning boards with their comments. The Citizens' Campaign said that there is "strong opposition to turning what is now and has been since 1990 a footpath, which is a regular part of the hiking trails connecting portions of the Eugene and Agnes Meyer Preserve, into a paved road."

"The landowners on Oregon Hollow road certainly don't want to see a road up there," said Amy Fenno, a member of the Citizens' Campaign to Save Seven Springs. "If they did get to build the road, boulders would cascade into their living rooms and backyards. It's a very narrow footpath, and on the right side is a boulder wall, which means in order to create a road through there, they would need to blast. What they are proposing is to build a wall on the right-hand side and a rail on the left. It's an absurdity."

The North Castle Open Space Committee commented that "this is the first time since taking ownership of the property in 1995 that the applicant has claimed this property right."

Kerri Kazak, co-chair of the North Castle Open Space Committee, said, "The applicant is calling the secondary access an emergency access, as though a statute existed, leading the public to believe that there is such an ordinance. There is no emergency access ordinance."

Ms. Kazak said that requesting an emergency access sounds better to the public. "But it's a fictitious argument," she said. "The Mount Kisco Fire Department, which contracts with Bedford — as does New Castle — said they would service the area with or without an emergency access road. Farm Road is the main access road."

Connecting Oregon Road over to Sarles Street would really be creating a through street, said Ms. Kazak.

"If he creates a through street, he can avoid the cul-de-sac ordinance and doesn't have to comply with the Bedford ordinance," she said.

According to Mr. Osterman, there is no actual cul-de-sac ordinance, but rather Bedford's subdivision regulations address a dead-end street. "You can't have more than 15 houses on a dead-end street," he said. "It's based on public safety issues."

Sevens Springs was purchased by Mr. Trump in 1995 for \$7.5 million. For seven years Mr. Trump pursued building an 18-hole golf course, which eventually met with local resistance. Last spring Mr. Trump changed his application, proposing instead to build 15 new homes while renovating two existing residences on the property. Eight of the homes would be in Bedford and nine in North Castle. The luxury homes would cost \$10 million to \$30 million. Mr. Trump has previously said that he plans to live in the Meyer Mansion at Seven Springs.