

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday March 16, 2010. Chairman Alan Bell called the meeting to order at 7:30 p.m. Board members Robert Straub, Dennis Rosenfeld, John Gunn, Tony Brenner, and Stacy Olyha were present. Joe Zeidan was absent. Also present was Kevin Donohue, alternate board member. Wanda Livigni, Administrator of Public Works, Walter Artus from Storm water Management Consultants, Greg Bolner from Clark Patterson Lee and Rebecca Valk from VanDeWater & VanDeWater.

Mr. Rosenfeld made a motion to accept the minutes of February 16, 2010, seconded by Mr. Straub and the motion carried unanimously.

### **PUBLIC HEARINGS:**

#### **FAWN HOLLOW AMENDED SITE PLAN AND SPECIAL USE PERMIT –**

Proposed site plan located on Freedom Plains Road containing 2 acres (Grid No. 6360-02-655845)

Mr. Jason Morris appeared before the board regarding this application. Mr. Morris said the Fawn Hollow Site Plan involves the Black Electric building located at the intersection of Rte. 55 and Hillview Drive in the town of LaGrange. He said the site is located in the C-1 zone requiring a ridgeline Special Use Permit on a 2 acre parcel. The proposal involves the renovation of the existing one-story 5,000 sq. ft. building to add a 2<sup>nd</sup> story, an additional 5,000 sq. ft. of office space for a total of 10,000 sq. ft. of office space. He said it also involves the re-paving of the western side. He showed the existing parking area which would be re-paved and curb it and add land bank parking in the rear which is a gravel area, where overflow parking can park and a refuse enclosure.

Mr. Day said there will be a new entrance on the east side of the proposed 2<sup>nd</sup> story and they are adding a 2<sup>nd</sup> entrance off of Hillview Drive for this new parking area. Additional renovations will involve underground stormwater and site lighting and landscaping.

Mr. Bell declared the public hearing for Fawn Hollow open for public comment and asked if there was anyone in the audience who wished to speak for or against the application.

Bob Kaminski of 39 Hillview asked who are the potential occupants for the 2<sup>nd</sup> floor. He said he noticed 17 parking spaces and was concerned with the traffic implications. He said eventually that entrance to Rte. 55 may be closed off and if the State had their way and the money, that would have been completed by now. Mr. Kaminski said if that's true where would all the traffic going to come from that enters that new parking area. He said it would have to come through Hillview Drive and added he was concerned about that.

Mr. Bell asked Mr. Kaminski if he was suggesting that the state would close off the main entrance, putting the business out of business. Mr. Kaminski replied he didn't know. Mr. Kaminski said the state was planning to close Hillview Drive off from Rte. 55. Mr. Bell said he thought Mr. Kaminski was referring to the main entrance.

Mr. Kaminski said then the traffic would have to come up through Bushwick Rd. to access that piece of property. Mr. Kaminski asked what kind of landscaping was planned to make it look decent. He said talked about Verizon on the corner and said he didn't know if that was an easement and asked what would happen to that piece of property and he also asked who owned that property. He asked if it was owned by Black Electric and being leased to Verizon because there is a switch box there and the Verizon trucks park. Mr. Kaminski said he thought it used to belong to Central Hudson.

Mr. Bell said the purpose of the public hearing is for the public to raise concerns early on in to the approval process so that the board makes sure they are all addressed by the applicant and the earlier they do it, the less costly it is for them to have to redo things and the better it is because they won't have concerns coming in late. He said the applicant is then required to respond in writing to the concerns so the board can review them. Mr. Bell asked Mr. Morris if he had any idea who the anticipated tenants were. Mr. Day replied no. Mr. Bell asked about the landscaping. Mr. Day said it wasn't shown on the plan, but there will be one.

Mr. Bell said the site would have to have a complete landscape plan and renderings/elevations to show what the building is going to look like. Mr. Day showed Mr. Bell the elevations.

Liz Diadoti of 46 Hillview Drive spoke. She said her house faces west which is in the direction of the building and currently because of all of the trees that are there, she cannot see the building. She said she is concerned that would remove quite a few trees and she would end up seeing the building which she said she didn't want to see. She said with that entrance way on Hill view Drive, she was concerned because she has young children, they ride bikes, walk, play ball and said she was concerned for their safety. She said that should be taken into huge consideration.

Mr. Kominski spoke again. He again asked who owned the Verizon property. Mr. Morris said the paved area is not on the applicant's property, the Verizon box is. Mr. Kaminski said he was hoping that it would be landscaped and added it was not paved, it was just a dirt shaped U that goes around where they park. Mr. Bell said he felt it was safe to say that the proposal would include landscaping on their property and probably won't include landscaping that's not on their property. Mr. Kaminski asked if there was a way to find out who owns the property. Ms. Valk said if the road was dedicated to the town, it's most likely owned by the town of LaGrange, if the road was never dedicated, most likely whoever developed that area has long since abandoned it and the town maintains. Ms. Valk said it was pretty certain to say that the town probably is in charge of that. Ms. Livigni said she thought the applicant's professional should be able to submit a plan that shows property lines.

Mr. Kaminski said the piece of property he is talking about is off of Hillview, not on Hillview. He said it's the corner of what looks like the Black Electric property. Mr. Bell asked Mr. Morris to show the location of that box on the plan. Mr. Bell said the property

lines are on there as well. Ms. Valk said the town doesn't own just the roadway, if the town owns it, usually you have an extra 8-10 feet on the side for purposes of drainage and site, so if the town does own it, it could be off of the paved way but as Wanda stated the applicant can identify whether or not it is an easement or if it's off the boundary line.

Don Kostic of 34 Hillview Circle spoke. He asked about the potential tenants and asked the purpose of building it if they had no renters. Mr. Bell said the opposite question works well also, which is how are you going to get tenants for a building that doesn't exist. He said the normal sequence is you evaluate what you think the business potential is and plan to build a building and somewhere late in the process after approval, you arrange for tenants. Mr. Kostic talked about drainage. He said he was at the bottom of the hill. He showed the board where his house was on the map. He said he gets a flood of water at the bottom of the hill as it is now, and his concern was this might make it worse. Mr. Bell said the board would make sure that's not true.

Mr. Bell said the plan will be thoroughly reviewed by the town stormwater consultant to ensure that the water flow off the site does not increase. Mr. Kostic repeated the concerns for the children, traffic and safety.

Darlene Vallard of 756 Freedom plains Road said her house was behind Sylvester's and she has a stockade fence part of the way. She said her property is next to the lot in the back where they are parking trucks now. She asked how much of that would be paved? Ms. Vallard said there's also a lot of brush against the stockade fence and hedges that are overgrown and asked when they said landscaping did it mean they would put a fence around that so if it's going to be a parking area, customer/workers would not have access to her property. She said she had an in ground pool which was fenced in. Ms. Vallard said she was concerned with the brush growing pushing down her fence.

Don Kostic spoke again. He asked why the need for the entrance on Hillview Drive and why couldn't something from Rte. 55 be moved to hit the parking lot, use the existing entrance that Black Electric has now and design something that can reach the parking lot they want to pave. Why a whole new entrance on a whole new road. Mr. Morris said the grade change from east to west is considerable and to meet town code with drive aisle grade and parking grade it would be very difficult to get access from Rte. 55 and be able to park on that side of the building because the connection would be too steep to meet code. Mr. Morris said he doubted the DOT would want to see another entrance onto Rte. 55. Mr. Kostic asked how that was any different from having to clear out all of the existing woods. He said he thought that would be just as difficult.

Mr. Bell said what Mr. Morris is saying is there is no way to connect it without the road being at too steep a grade unless they removed all of it and dropped it, the entire side of the property. Mr. Morris showed Mr. Kostic the elevation and grade and Mr. Morris said the town has standards for parking and driving and it is very difficult to meet those standards with the change of grade on the site.

Mr. Kostic said across the street is Holland Pools they basically just did the same exact thing with the grade, and they were able to adjust it. He said he wasn't sure he was comfortable with the answer.

Liz Diadoti of 46 Hillview Drive spoke again. She said they currently have 17 spaces in the proposed new lot which is 5,000 sq. ft. of additional business. She talked about the Fit Squad in the building and said if they continue to grow their business will they move upstairs to the new portion of the building. She said if this does go through with the entrance on Hillview Drive, there's 17 spots and chances are there's going to be more cars than 17 in this area so the overflow of parking will then be on Hillview Drive. She said there is a turn in Hillview Drive where if somebody is coming from Rte. 55 to Hillview Drive and you are coming around the bend, you cannot see oncoming traffic because of the turn in the roadway.

Barbara Dolan of 7 Hillview Drive. She talked about the difficulty on Rte. 55 turning in to Hillview. She said the reason the state wanted to close it from her understanding was that it's a bad turn and the cars don't slow down on Rte. 55 and by having this entrance into Hillview Drive, it will create more people making left hand turns and turning in with the difficulty on Rte. 55. she talked about mailboxes being knocked down by cars. Ms. Dolan asked about a possible left hand turn lane to widen Rte. 55 to accommodate the cars. She said you are talking about a lot of cars coming in and she would like to see a traffic study. She talked about cars flying up and down the street. Ms. Dolan said this was a residential area and it is a street that nobody knew existed. People who live on Mandalay don't even know they are there. She said that's the way their neighborhood wants to stay. Ms. Dolan said she has been to a couple of meetings regarding the town center and added she thought the town center was being built to eliminate strip malls and this is just a continuation of making Rte. 55 part of a strip mall by adding more businesses all along Rte. 55. How is that fitting in with Town of Lagrange's plan.

Mr. Straub made a motion to close the public hearing, seconded by Ms. Olyha and the motion carried unanimously. PUBLIC HEARING CLOSED.

The question was raised about the next meeting and if the public would be notified and how long the applicant had to respond to the public's comments. Mr. Bell said there is no deadline for the applicant to respond. He advised that if the people present were interested in finding out when the next meeting would be, to keep an eye on the website for the agenda or call the Planning Office. The Board was not required to notify the neighbors again.

**PARAVATI SPECIAL USE PERMIT** – Proposed special use permit located on Strawberry Lane containing 1.089 acres (Grid No. 6359-02-574861)

Mr. Mike Gillespie of M. Gillespie & Associates appeared before the board. Mr. Paravati was also present.

Mr. Bell said the Building Inspector told him that he suggested the bathroom downstairs was something he didn't want to see. He asked Mr. Paravati if that sounded familiar to him. Mr. Paravati replied no. He said Mr. McLaughlin told him there was a problem but didn't tell him what it was. Mr. Bell addressed the Planning Board and updated them on what this applicant was trying to do. He said he wants to put an addition on to his home and at the same time create an accessory apartment. He said the issue was that the accessory apartment was supposed to be upstairs and the office that is being put downstairs shows a bathroom and what Ken was concerned about was that it looked an awful lot they were creating multiple apartments and that it wasn't something he was agreeable to.

Mr. Bell said Ken wanted to see the bathroom removed from the office that was downstairs so it couldn't become living quarters. Ms. Olyha said she thought the definition of an apartment is it has a kitchen. Mr. Bell said he believed she was right. Ms. Olyha then asked so what was the deal with the bathroom. Mr. Bell said she would have to ask the Building Inspector. Mr. Pavarotti said that is not what Mr. McLaughlin told him when he brought the plans in. He said Ken told him he didn't like the door going into the office from the bathroom and he said he agreed to take the door out. Mr. Bell told Mr. Paravati to address these issues with Mr. McLaughlin, not the board. Mr. Paravati asked if that was the only concern of the board. Mr. Bell said that was not a concern of the board at all. He said the purpose of the meeting is to allow the public to raise their concerns, not the board's. Mr. Bell said he was under the impression that the plan was going to be marked up and put on the wall for the public to review. Mr. Bell said it appears there was a mis-understanding between Mr. Paravati and the Building Inspector and said the two of them could settle it.

Ms. Livigni said Mr. Paravati needs to resolve this with the Zoning Department prior to approval if it is an outstanding issue. Mr. Bell replied absolutely.

Mr. Paravati spoke. He said he is adding an addition to his house to do an accessory apartment.

Mr. Mike Gillespie was present. He said Mr. Paravati lives on Strawberry Lane on a 1.8 acre parcel. He said there is a proposed addition and it will meet all the setbacks regarding the zone this is in. He said when Mr. Paravati approached his office the thought was to do an accessory apartment for his parents. The way the house is currently set up, they have to do a full foundation. If you look at the plans, the top really is an accessory apartment, with a kitchenette, bathroom and bedroom. Mr. Gillespie said regarding the downstairs, he said they have to build this space and the thought was could they make something usable out of it and Mr. Paravati recently obtained his P.E. License and the thought was he could be at home doing some work once in a while.

Mr. Gillespie said he has taken a look at this from a building perspective, he didn't see any issues specific to allowing this, and added this was certainly a discussion he needed to have with Ken. He said he thought Ken was apprehensive about creating multiple units on top and bottom and it's a relevant issue and wanted to add that wasn't going to

happen and that was important to say at this level. If it is an issue regarding an access from this office to the bathroom and it needs to be eliminated, maybe that's what needs to be done. Mr. Gillespie said the upstairs is clearly an accessory apartment and when you work the numbers down based upon the size of the home, based upon the accessory apartment; it is actually about 32%, which he said was good because you could only go up to 35% maximum on an accessory apartment. Mr. Gillespie said for some reason if they decide to calculate below as part of that they are over 45% so it was his thought that the bottom wouldn't even be considered an accessory, it would just be portions of the finished off basement. Mr. Bell said that Ken did not express to him that he had any concerns regarding whether the total square footage being constructed was larger than satisfied the accessory apartment definition. He said that was not something Ken told him he had a concern with. The only thing he mentioned was the bathroom. Mr. Bell said if Ken hasn't mentioned that to Mr. Paravati, then they need to talk about what is going on so Ken is satisfied that what they are proposing is an addition with an accessory apartment as opposed to a multi-family dwelling. Mr. Bell added that was Ken's call not the board's.

Mr. Gillespie said because he didn't bring up the size issue is because the top is the only thing that is considered the accessory apartment and they fit within the guidelines. Mr. Bell said Ken needs to be convinced that what they are doing meets zoning and he makes that determination.

Mr. Bell declared the public hearing open and asked if there was anyone in the audience who wished to speak for or against the application. There was no response.

Mr. Straub made a motion to close the public hearing, seconded by Ms. Olyha and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Bell said he had a number of comments related to this including a memo from Ken saying the septic system is functioning properly and appears to be adequate for the needs.

Mr. Bell also referred to a letter from Central Hudson saying be careful, basically the call before you dig information. Mr. Bell also added a letter into the record from an adjacent property owner. (Attached)

Mr. Bell said the applicant is required to respond in writing to all of the comment letters presented at the meeting. The board set an escrow for \$200. Mr. Donohue asked if the board was approving a site plan with this application. Mr. Bell said site plan is for commercial development. Mr. Donohue talked about a site plan for special use permits, it's a consideration. Mr. Bell said the board has never required anything like this before. Mr. Donohue said he was making the suggestion that they ask for the waivers and next month they should have a statement that they have conformed with all the standards in the zoning law. Mr. Bell said he thought the board already had that in their packets. Mr. Bell said the arrangement the board has with the Zoning Department is they verify that is all true or it doesn't get on the agenda in the first place.

Mr. Bell asked if the board had to vote to waive the site plan. Ms. Valk recommended doing it the same time the board grants the special use permit.

**OTHER BUSINESS:**

**HARVEST RIDGE SUBDIVISION** – Proposed 52-lot subdivision located on Noxon Road containing 110.9 acres (Grid No. 6460-04-803005. 740133); consideration of final subdivision approval

Mr. Bell said the agenda says that the board is considering final subdivision approval, but that has changed. Mr. Ernie Martin was present. He said it's been a year since he was before the board. Part of the property is in a floodplain and a floodplain study was done with the Harvest Ridge Subdivision together with the site, Crystal Lakes. The town's professionals felt that the flood study should be re-evaluated, mainly for in light of the current flooding that's been going on in town over the past couple of years, just to look at the Harvest Ridge and evaluate the effects of the flood on its own merit. Mr. Martin said that was done and submitted to FEMA and FEMA produced a letter of acceptance stating it was the proper procedure and that the original work was done as well as the new work.

Mr. Martin said that issue has been resolved and in addition, they've been working with the town's professionals and their various comments and he said he thought they were all reviewed and approved. He said he was talking to Walter about a few additional survey monuments where they have a conservation easement as well as property lines. He said he would have to amend their subdivision plat for that matter.

Mr. Bell asked both Mr. Bolner and Mr. Artus if there were any issues that were outstanding that they anticipate couldn't be tidied up before the next meeting. Mr. Artus replied no, he said most of his comments were administrative other than the comment relative to the monuments. Ms. Livigni said in addition to FEMA, DEC had also reviewed the revised Clomar application involving the floodplain analysis solely for Harvest Ridge. She said all of the other issues raised by Mr. Kelly and her were resolved. Mr. Bell said it sounds like there is nothing outstanding and should be prepared for approval.

Mr. Bolner wanted to clarify one point. He said the reason for the re-do of the study was the fact the study covered both properties and because only one property is being improved you could have never closed out the study. Mr. Bell said the original floodplain analysis covered this property as well as the entire site on the other side and since the proposal only called for modifications on one side, the board thought there were problems with it and asked them to re-do it for just this side.

Mr. Bell said the board would see him next month.

Ms. Valk said she spoke with Jon Adams and they agreed that Ms. Valk would write up a short consent because it is going to be slightly past the 62 days so they've gotten consent

from Mr. Adams and Mr. Nesheiwat, so it should automatically be on the agenda for next month.

**SPINELLI AMENDED SITE PLAN** – Proposed site plan located on Freedom Plains Road (UPDATE FOR THE PLANNING BOARD )

Ms. Livigni said this is Taylor Rental on Rte. 55. She said they came in July 21, 2009 for an amended site plan. She said they came in with a sketch and now the board was looking to get an update and see the progress they have made. She said there were some issues. Mr. Bell said one issue he remembers is he poured through all the copies of all the plans and none of them have anything that shows a tent pole, so if the board reviewed something, it was never approved. He said he spent a fair amount of time looking over the documents. Mr. Bell said the code says if you are storing stuff outside it has to show on the site plan where it is. He said he believed the current plan didn't show that.

Mr. Spinelli spoke. He said July 21 of last year it was suggested by the board they were going to look in to the old site plan to see what they could come up with and that was the end of the meeting until he received a call last week to come back to the Planning Board.

Mr. Spinelli said the site plan was approved in 1988 to have equipment stored in the front and bring them in at night. He said here it is several years later and he said he felt a little humiliated to come to the board and start all over again for something that took place 30 years ago. He said he wished this could be completed one way or the other. He said it is very important that they have equipment exposed on the side. He said it is the nature of the business that they do that. Mr. Bell asked Mr. Spinelli if he moved it back at night and Mr. Spinelli responded if they have to.

Mr. Spinelli said the old site plan does show certain spots that they can have equipment there around the clock which was amended in 1988. Ms. Olyha asked to see the original site plan from 1988 because she wanted to see if it had those little drawings on it. Ms. Livigni said the black sharpie marking was added. Mr. Bell said he believed the minutes from the meetings also indicated that the understanding would be brought in at night.

Ms. Livigni said this site has been in violation for leaving the equipment out all night. Mr. Bell asked Mr. Spinelli if it was his intent to start storing it at night so that the violation is satisfied or is it is intent to ask for an amended site plan to try and get the board's approval for leaving out all the time. Mr. Spinelli's son spoke. He said Mr. Osoba was recently at their establishment and when he observed the way their display was situated, he didn't seem to think there was any violation at all. Mr. Bell asked when that was and Mr. Spinelli replied back in December.

Ms. Valk said you either do an amended site plan or come into compliance with the 1988 plan. She said you cannot approve a plan marked up on another engineer's work. Mr. Bell repeated what Mr. Spinelli said about the enforcement officer being there in December stating that he didn't see any violations so he asked what was the status of the violations. Ms. Livigni said it was her understanding that they have a court date next

week. Mr. Bell said the conclusion is simple, with the 2 choices he gave Mr. Spinelli, either change back to bringing the things in at night so that you are in compliance or they can submit a new drawing what it is that they would like to do and seek the board's approval for that. In the meantime he suggested to Mr. Spinelli that he put himself into compliance since the board is disinclined to consider applications for sites that are currently in violation. Mr. Bell told the applicant if they want to change what they are approved to do, then they can do that but before than can, they have to be in compliance with current plan.

Mr. Bell asked Ms. Livigni if she knew what the original violation said. Ms. Livigni said she believed it was location. Mr. Spinelli said there was a spot designated to the left closest to the highway and Mr. Bell said they were storing it in places other than that, like in the parking lot and Mr. Spinelli said yes, until it was explained to him and then they moved it.

Mr. Bell looked at the Order To Remedy that was in the file and said that it also stated that their current sign was not in compliance but that was not the board's problem. Mr. Bell read from the minutes of the approval in 1988.

"Mrs. Black explained that this business has been operating under a temporary certification of occupancy for a number of years. The Building Inspector asked that the applicant present an amended site plan to the January 1988 Planning Board which shows the as-built plan of the site before he grants a permanent certificate of occupancy. The board asked Mr. Spinelli to remove the equipment from the front of the site, especially the forklifts which are raised to draw attention used in an advertising manner. Mr. Dial made a motion to grant approval to the as-built site plan with the provision that there will be no forklifts or apparatus of that type used out front as advertising. Mr. Anson seconded it and the motion passed unanimously. The board agreed with Mr. Spinelli that during business hours trucks could be parked there but as of the close of business at the end of the day, everything including trucks should be out of site."

Mr. Bell said it sounded like they could park trucks, but they couldn't park forklifts and other apparatus at all and in any case everything has to be in at night and added that if they were not doing that, they were not in compliance with the approval. Mr. Bell said his suggestion would be that they begin complying with those conditions and if they want to submit an application for approval something beyond that, they were free to do so and the board would consider it. Mr. Bell said a portion of the violation says they have been repeatedly out of compliance for years. Mr. Spinelli said for now they will bring everything back inside. Mr. Bell responded not for now, forever, unless they seek approval.

Ms. Valk spoke. She said if they have been doing this over the years, they have been lucky that the Code Enforcement Officer hasn't caught up with them earlier. She said she understood what their goal was but the board only has 2 options, so they cannot give a middle. Mr. Bell said they really only have one option – to consider an amended site plan, and other than that it doesn't really have anything to do with the board, it was an

enforcement issue. Ms. Valk told Mr. Spinelli he had 2 options, and there really was no in the middle. Mr. Bell said the only option Mr. Spinelli has that has anything to do with the board is to come in with an amended site plan. He told Mr. Spinelli if he didn't come in and get a modified site plan than he had the option of either complying or not complying and dealing with the enforcement officer. He said the board has no authority to change the determination of the compliance officer and all the board can do is consider an amended site plan.

Mr. Bell said he cannot speak from experience because he was not on the board in 1988 and added that is what the minutes say and if they didn't have trucks in 1988, he didn't have any way of understanding why they were approving him to put them out in the front. Mr. Bell said the approval Mr. Spinelli has allows him to store trucks out during the day and bring them in at night and specifically says he cannot put forklifts or other equipment out at all. Mr. Bell told Mr. Spinelli if he wants to change that, the board can consider an application but nothing beyond that.

**KONDAS SUBDIVISION** – Proposed 2-lot subdivision located on Freedom Road containing 141 acres (Grid No. 6462-01-191677); set public hearing

Mr. Bell said this is the subdivision where they have the house and the cottage on a single lot. They came in and the board wasn't sure it met zoning because you cannot have 2 primary buildings on the same lot. He said they went to the ZBA and got a variance and now they are no longer in violation of zoning restrictions and the board can set a public hearing for April 20, 2010. Mr. Bell set \$1,000 escrow. Ms. Livigni said she spoke to Dutchess County Department of Public Works and conceptually they do not have any issues with the 2 curb cuts on the one parcel. She said they will have some comments in regards to notes they may want added.

The Planning Board set the public hearing for April 20, 2010.

**ROGER REALTY INC.** – Proposed site plan located on Rte. 55 containing 2.806 acres (Grid No. 6560-01-473908); initial presentation

Mr. Mike Gillespie appeared before the board. He said this is the Roger Concrete Building which was the old Eberhard building which is down toward the intersection of Rte. 82 and Rte. 55. Mr. Rodriguez and his family own the Roger Concrete business and they bought it about 10 years ago. Mr. Gillespie said this is hopefully a fairly simplistic modification to the site plan. They have about 9 or 10 total employees within the building and they are using their conference rooms for office purposes and need room to spread out. He said the proposal is a small addition off the back side of the building. He said the addition would only be 1 story. Mr. Gillespie showed the board an elevation of the front of the building and also showed the board the exterior of the proposal for the rear. He said it will maintain the same look. He said they prepared a generalized floor plan which he showed the board.

Mr. Bell said it's just an addition. Mr. Gillespie said yes with no change in use. Mr. Bell asked if this would require more parking than is already there. Mr. Gillespie said they ran some parking calculations and they are way over as it exists.

Ms. Livigni asked if this increase would require any more detention for storm water. Mr. Gillespie said there is a small deck on the back of the property which is being removed. Mr. Gillespie said there is a detention facility in the front of this. He said he thought this modification wasn't way off so that they would have to start messing with storm water.

Ms. Olyha said her concern was the water because she remembers there was a lot of water out there when they built that building. Mr. Bell said this seemed like a site plan that the board was going to waive most of the site development plan requirements. He said at some point the board would have to go down the list and see what they can waive and what they actually want to see. He said in general it looked like they would need topography to give them an idea on the storm water. Ms. Olyha asked about the material storage area and asked if it was blacktopped. It's a gravel finish. Mr. Gillespie said they would be looking at a number of waivers. He said they have shown topo in the area where the addition is going. Mr. Artus added the applicant should provide a list to the board. Mr. Bell said that was a good idea.

The Board set a \$200.00 escrow. Mr. Bell set the public hearing for April 20, 2010.

#### **REQUEST FOR TIME EXTENSION:**

**BIXBY SUBDIVISION** – request for 90-day extension of re-approval of final subdivision approval (1<sup>st</sup>.)

Mr. Rosenfeld made a motion to grant a 90-day extension, seconded by Mr. Gunn and the motion carried unanimously. 90-DAY EXTENSION

**PAGE COMMERCIAL CENTER SITE PLAN (TACONIC CENTER)** – Proposed site plan located on Rte. 55 containing 14.58 acres (Grid No. 6460-02-9609601; 957922)  
DISCUSSION PUBLIC HEARING NOT HELD

Mr. Ken Casamento of Page Park Associates appeared before the board. He said he has some housekeeping issues that the board asked for. He showed the board some phasing documents. He said he also had a line of site drawing with some aerial photographs the board asked about some visual looks. He said he wished to also discuss the slopes at the site with regard to the zoning and 3:1 slopes..

Mr. Casamento said their Phase 1 plan includes the health center in the back. Mr. Bell asked Mr. Casamento if their application was going to propose development in phases. Mr. Casamento replied correct, in 2 phases. He said on the next submission they will completely break the site into 2 phases for storm water for grading to show the board what exactly is being built. He said one of the comments and questions from the consultants was to show where the limits of the disturbance are going to be for those

activities for Phase 1. One of the things that is on the plan is potentially moving the sewage treatment plant closer to the health center for the simple purpose of the way the storm water pond is laid out during phase one, they can potentially make the pond longer to eliminate the walls on the one side for phase 1.

Mr. Casamento said phase 2 would be what they have seen before, which is the addition of the 2 office spaces as well as the bank. Mr. Bell said the board requested to see that because at the last meeting there was a mention that they might phase and the board said if they were going to do that, it would be good to show the board. Mr. Bell said it's good to have this because as they move forward they will need that detail and other documents.

Mr. Casamento showed the board some aerials the first being from the Taconic heading south looking across the site. He said it was a view from Google, a live view from the road and you can look into the site. Mr. Casamento talked about the elevation at 376 and said the height of the building is at 382 at the peak. Mr. Bell said that all of that would screen the building. Mr. Casamento said they were proposing plantings on their property line as well. Heading from south looking north, he pointed out a motorcycle. Mr. Casamento talked about the line of site going right through the off ramp, the exit ramp to Rte. 55. Mr. Casamento explained if you look through the trees you aren't going to see the property at all. Mr. Casamento said another view was straight from Rte. 55. He showed the board. He said the road elevations are at about 354 and their slab is at 346 so there were actually below the road for the finished floor of the building, but the roof was going to be about 380 in that area. He said you will be able to see it from the road. Mr. Casamento said they have full renderings that the architect is working on for the next meeting. Mr. Bell said they should be for the finished product, not just for phase 1. Mr. Casamento agreed.

Mr. Casamento said in the code there is a stipulation where there is no 3:1 slopes allowed on a facility. He said the way it reads in the code, it almost describes as adjacent to a property line. He said on this site they are set pretty much away from the property and it is his understanding that the code is to help for stormwater on adjacent properties so they don't adversely impact adjacent properties when they are grading right up to a property line. Mr. Bell asked where they would have slopes that were greater than 3:1. Mr. Casamento referred to the map and pointed out 2 proposed 2:1 slopes. The board and Mr. Casamento continued to discuss the issue of the grade of the slopes. Mr. Bell asked if the board had any flexibility with this. Mr. Artus said the board has had a policy of no slopes greater than 3:1 anywhere. He said that is mentioned in streets and sidewalks relative to road shoulders and it is also mentioned in another portion of the code relative to another undefined phrase...at or near the property line, which is the point Mr. Casamento was making.

Mr. Bell said it looks to him that the areas he was referring to was at or near the property line. Mr. Casamento replied it was not near the property line, he pointed out the property line and also showed the full wetland buffer which is before you get to the property line. Mr. Casamento said in this case they are below the property line and explained that to the board. Mr. Bell asked Mr. Casamento if he was suggesting that the purpose of that was

to make sure that it's not steep enough to create water shed off the property and it's in the opposite direction. Mr. Artus said he didn't know the intent of when it was written what at or near the property line means. He said he assumed a few things...one of them could be storm water adverse impact of drainage onto an adjoining property, another could be visual and another could be maintenance. Mr. Artus said his first thought was the impact of drainage and it could have been other issues as well. He said it is very hard to know the intent of that in the code and it's also hard to define at or near the property line with any real definition.

Mr. Casamento explained the issue of the slope on the property. Ms. Olyha asked if the visuals were done as existing and Mr. Casamento said they did them with the proposed grades. He said for maintenance purposes, they have landscaping with grass where it would be unmowed and they are proposing some trees and shrubs along it to break up the slope for stability and they are also talking about putting slope stability fence matting down to protect the slope from erosion in those areas.

The project could be built using the 3:1 slope but what it does is creates a lot of unnecessary, unsightly walls on the project. Mr. Casamento said they talked about one wall taller than tiering the walls which they could do either way. It's a matter of when they get into looking into the cost and which is the best way to build the wall effectively.

Mr. Bell asked if it was one wall, how tall would it be. Mr. Casamento referred to an area where it would be +/- 11 to 12 feet and in another area he referred to, it would be 8 or 9 feet. Mr. Bell told Mr. Casamento not to waste his time with that because the board would not approve a 12 foot wall on the property.

Mr. Donohue asked about distance of slopes. Mr. Casamento replied 12 feet. Mr. Bell said that was the vertical drop, Mr. Casamento replied correct and Mr. Bell said so the length would be somewhat longer. Mr. Bell said he would have to check to see if the board has flexibility or not. Mr. Donohue said he would leave the burden to them to prove to the board that there's no other way. Mr. Bell said the alternative they expressed was tiering walls. Mr. Bell said he was relatively sure the board would rather have this than a 12 foot wall. Mr. Donohue asked the applicant if he could do some 1:2, 1:3 like variable pitch. Mr. Casamento said they can vary the pitch, you are still going to end up with a wall at some point. Mr. Donohue asked if they were proposing a well, Mr. Casamento said they were not proposing a wall and said if they did a variable pitch, they would still end up with some kind of wall because you would run out of room.

Mr. Donohue asked Mr. Artus about instead of a straight pitch down was there a way to undulate the pitch. Mr. Artus said on the property line side, without doing any calculations, you might have an issue with the setback from a wall, depending on the height, to the property line. Mr. Artus said they initially had this issue with Country Commons. Mr. Bolner said a wall taller than 6ft is a structure and that can't be in the setback. Mr. Artus said on the property line side he thought they would have more of an issue with the retaining wall, they would have to get a variance. Mr. Artus said if the board did approve a 2:1 slope he would require some pretty heavy duty slope

stabilization, maybe even more than they are proposing, maybe something like a synthetic erosion matting. Mr. Bell asked about the other side. Mr. Donohue said there is still the same issue because they have to buffer the wetland. Ms. Olyha said that would have some heavy duty erosion on that side. Mr. Casamento said the erosion on the side he referred to on the map, because it is curved, would be just grass slope. Anything inside the property would be contained. He said once they stabilize the slope it's just the width of the slope on that side that would be draining toward the wetland. Mr. Bell replied ok and added he didn't think the board was in a position to say one way or the other.

Mr. Bolner said there is already a 10 foot retaining wall on the property. Mr. Bell asked Mr. Casamento if they were proposing to keep it and he replied yes. Mr. Bolner said it has nothing to do with the proposed grading, they are showing a 10-foot retaining wall. Mr. Bell asked again...was it there now? Mr. Bolner replied no, it was proposed now on the plans and he did not make a comment in his comment letter that it would not be allowed. If the board has a concern then that is something that the board would need to address. Mr. Bolner said the board made the point that it did not want to see a 10- foot retaining wall and if that is a concern, it needs to be talked about. Mr. Bell asked the board if they shared his concern with a 10-foot wall on a commercial property. Ms. Olyha said especially since it is going to a wetland. Mr. Bell said he viewed them as inherent problems from a safety standpoint. Mr. Donohue asked to point out the wall. Mr. Casamento showed the board. He said it was 11 feet in one area to 4 feet. He said they have done some preliminary soil tests in the area for the wall design and they are proposing a sierra scape wall, which is similar to the gabian style baskets but they are vegetated. Instead of just pure rock, it's got soils within in and planted with vegetation so within 3 to 5 years you don't see the wall physically. Mr. Bell said but it is straight up and down.

Mr. Bell said he is still thinking that 10-foot walls is just asking for someone to fall off of it. Mr. Casamento said they had a guardrail and a chain link fence on that side being proposed in that area. Mr. Straub said the board fought this issue on the development by Mandalay extensively when they were talking 6-foot walls then. Mr. Bell said that was a housing development and he said he didn't believe they were proposing chain link fencing to protect it. Mr. Straub said it is going to be a difficult issue to deal with. Mr. Bell told Mr. Casamento if he had alternate solutions to this, he might want to take a look at it. Mr. Donohue suggested pictures.

Mr. Casamento said they were looking to move forward with the design and a major issue on the site is how they lay out the rest of the site to proceed. Mr. Casamento said he was wondering how he can come to a conclusion so they can proceed with the full design and respond to the consultants comments. Mr. Donohue said he was open minded, but they should have a plan B. Mr. Casamento asked other than the one with the walls? Mr. Bell said if they are proposing walls, the board preferred tiered ones so he said the board would like to see that and told Mr. Casamento if they had other alternatives to show them. Mr. Bell said just looking at the space constraints, he was thinking there probably weren't a lot of options. Ms. Olyha said smaller buildings, less buildings. Mr. Bolner

said if you go with a 4-foot wall and you've got roughly a 12-foot change in elevation by having a 4-foot vertical wall, you basically remove 4 feet out of the 2:1 so instead of being 24 feet now you are down to 8 x 3 which is 24 feet. He said he thought if they went with a four-foot wall and 3:1 slope, it would work. Mr. Casamento said not the whole wall is 12-feet; he pointed out different spots with different heights. Mr. Bolner said he thought Mr. Casamento said he would need 12-foot walls to go from 2:1 to 3:1. Mr. Casamento said he apologized if he did, that wasn't his intention. Ms. Olyha said Mr. Casamento was talking about that on the wetlands side. Mr. Casamento showed the board where the wall would go and the different heights in different spots. Mr. Straub asked if the health building had to be a square. Mr. Casamento replied unfortunately that was the look that the applicant and the architect are looking to build. Mr. Straub suggested rectangular because it looked like it would fit better.

Mr. Bell said Mr. Casamento's statement was any place where the wall is more than 4 feet high, it's got to be more than 6 feet from the property line. Ms. Olyha said it has to be outside the setbacks. Mr. Casamento said they have shown that. Mr. Artus said the setbacks are 30 feet. Mr. Bell said it was to their advantage to keep it under 6 feet except for the section that is outside of the setback. Mr. Bolner said anything over 4 feet has to be engineered.

Mr. Bolner asked if architectural drawings were submitted. One of the concerns he has with what they are showing on their profile, and the board may have a comment on is, where are they proposing a flat roof. Mr. Casamento said they are not. He said they were showing a flat roof but it was not proposed. He said there is a parapet and a point. Mr. Bell said he thought the board doesn't care about the wall on the side he referred to. He said he understood they would rather do the 2:1 and the board would look at that. He said he didn't think they had an issue on that side with the wall because it's not higher than 6 feet and the only way somebody would fall off of it is if they came walking in from the Taconic. He said he was more concerned with people and kids running around and falling off of something. So on the other side where they have 9 foot and 11 foot, he thought caused concern.

Mr. Casamento said he would look at it again and see what they can do. Mr. Casamento asked to set the public hearing. Ms. Olyha said she thought the board needed to look at more plans and Mr. Bell said the plan they present to the public should be more the way it is going to be proposed and then the board can make some decisions at that time. Mr. Donohue asked if the public hearing would be for phase 1 or the whole project. Mr. Bell said the public hearing should be to cover the entire project because it's an environmental review and covers everything.

The issue of the public hearing was further discussed and Mr. Donohue asked if the notices were done. Mr. Bell replied yes, but they were taken off the agenda. Mr. Donohue said when the public come in they should have some answers. He said they are still open about the interpretation about the 2:1 and it's relation to the property line. He said it has to be a solid decision. Mr. Bell told Mr. Casamento the board needs all of that resolved because if the public has concerns the board should have answers. Mr.

Casamento asked if staff would comment on this, perhaps Steve Gaba. Mr. Bell said he wasn't sure they needed an attorney. Ms. Livigni said Steve Gaba did discuss this with Greg Bolner. Mr. Bolner said he was pretty much of the opinion that this was to the disgression of the board if there's not anything specific in the code which he said he was unable to find anything specific in the code and basically that would be a judgment call from the board and engineering. Mr. Bell said so the board has that flexibility.

Mr. Bell said told Mr. Casamento it would be a good idea to come in with a little more detail on both sides, how they are going to handle the 2:1 that would satisfy the board and have a plan B.

Mr. Straub made a motion to adjourn the meeting at 9:15 p.m. seconded by Mr. Donohue and the motion carried unanimously. MEETING ADJOURNED

Respectfully submitted

Eileen Mang  
Planning Board Secretary