

A regular meeting of the Town of LaGrange Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday October 20, 2009. Chairman Alan Bell called the meeting to order at 7:30 p.m. Board members Bob Straub, Dennis Rosenfeld, John Gunn, Tony Brenner and Stacy Olyha were present. Alternate board member Kevin Donohue, Wanda Livigni, Administrator of Public Works, Walter Artus from Stormwater Management Consultants and Greg Bolner from Clark Patterson Lee.

Mr. Straub made a motion to approve the minutes of September 15, 2009, seconded by Mr. Gunn and the motion carried unanimously. MINUTES ACCEPTED

PUBLIC HEARINGS:

Mr. Bell announced there was a new alternate member, Kevin Donohue and added that he would be a voting member.

BROTHERS COMMUNICATIONS AND SPECIAL USE PERMIT –

Mr. Bell said the board needed to vote to declare the board's intent to be Lead Agency and to circulate. Mr. Rosenfeld made a motion to circulate for Lead Agency, seconded by Mr. Straub and the motion carried unanimously.

Mr. Frank Redl said he did not have the original notice of publication, just a copy from the paper. Mr. Redl said also present was his brother David. He said the application is seeking site plan approval and special use permit to erect a telecommunications tower upon the salvage yard property on Rte. 55. The tower is 195' tall and the drawings show that it is going to be in the center of the property. He said it meets the code in that it will not be within 500' of any residences and under the ridgeline law it is allowed. He said they have 11 acres.

Mr. Redl said this tower will have very minimal effect on the land and will not require plumbing, water supply, sewer and added it's not going to be a manned tower. The drainage will not affect any present stormwater on the property. The design of the tower is such that they will be allowed to have 5 telecommunication companies on the tower in addition to 2 smaller antennas on the bottom. One for the town highway department and the other for the fire department. Mr. Redl said the public notice indicated it was going to be a monopole but their design is not a monopole, it was going to be a self-contained, self-collapsing tower. Mr. Redl said it was like a lattice tower. He said it will not increase traffic to the area and they will not need any roadways or curbs. Mr. Redl said they received comments from the town's consultant and said they will prepare their written response and submit it to the town before the next meeting.

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

William Spiak of 863 Freedom Plains Road said he was an adjacent property owner. He said he feels this decreases the value of his property and the tower would be close to his

property line – 125'. He said he bought the property with the intention of subdividing it and build a retirement home at the same site this is being proposed. Mr. Bell asked Mr. Spiak if he just said he was going to build a retirement home on their property. Mr. Spiak said he owned 14 acres. Mr. Bell said the applicant is building a tower on their own property. Mr. Spiak said it would be in the line of view of his property.

Mr. Spiak expressed his concern about the tower falling, microwaves, close proximity to the nursery school and high school and decreasing the value of his property. Mr. Spiak asked what the need was for another cell tower when there was one on Vervalen that wasn't even fully rented. Mr. Redl said that tower has a dead spot in Apple Valley. Mr. Spiak said he would like to see a study on that. He said that tower on Vervalen is in close proximity to this and it is vacant. He said the town had big problems with that cell tower.

Mr. Spiak talked about noise levels, quality of life and other aspects and if it falls, he said it would fall onto his property. Mr. Bell said they are designed today to collapse straight down, he said the towers don't fall, they collapse. Mr. Bell said there is a full study that documents what the need for the tower is. He said there are 2 separate issues when dealing with cell communications – one being whether there is a signal or not, the other is total bandwidth and that means that you might have a signal that's available but all the circuits may be busy and so they sometimes have to put up extra transponders.

Mr. Spiak asked about SEQRA and Mr. Bell said this public hearing was a part of that. The determination was not done yet. Mr. Spiak asked how this fit into the town master plan as far as seeing it on the hill. Mr. Bell said because it is on the hill, a permit is required because of the ridgeline law.

Mr. Rosenfeld made a motion to adjourn the public hearing to November 17, 2009, seconded by Mr. Gunn and the motion carried unanimously. PUBLIC HEARING ADJOURNED.

Mr. Bell gave the applicant a copy of a letter from the town's building inspector.

Ms. Valk said some of the issues regarding setbacks have already been answered. She said Ron Blass did a letter about 5 years ago. She said the question is whether or not this could somehow be deemed an expansion of the non-conformity of the junk yard. She said she would weigh in on that. Mr. Bell advised Mr. Redl that he needed to respond in writing to the public hearing comments. Mr. Redl said he would have that before the next meeting.

LAGRANGE PHYSICAL THERAPY SITE PLAN AND SPECIAL USE PERMIT-
Proposed site plan located on Freedom Plains Road containing 1.09 acres (Grid No. 6360-02-626880)

The notice of publication was submitted to the board. Mr. Fred DiBernardo and Mr. John Burk appeared before the board. He said they are interested in turning a C-1 zoned

commercial property that is currently being used residentially into their existing physical therapy practice. He said they are currently in the M & T bank building.

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

Shiela McLean of 767 Freedom Plains Road spoke. She said she was not against the new commercial business but had some concerns with what would happen once they get there. She said she lived on Rte. 55 her whole life and knows how the traffic is. When Black Electric came the traffic increased because of the trucks coming in and out and so if you take that traffic increase plus the traffic from the therapy business it was going to make traffic worse and she said it would create more of a congestion and accidents.

Ms. McLean said she had a small child, and she lived next door. She was concerned about her safety and the activities of the different people that would be coming in and out of the physical therapy place. She talked about security and having a commercial business next door as opposed to a residence. Ms. McLean asked about the lighting and the plans for that. She talked about parking and noise levels. She asked what would the commercial building do to property tax. Mr. Bell asked Ms. McLean if she meant the affect from it going from residential to commercial on her taxes and she responded yes.

Ms. McLean said she was not against it, there were just a lot of issues and concerns she had.

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

Mr. Bell asked the applicants if they planned on operating at night. Mr. DiBernardo said their office closes at 7:00 p.m. only on Monday and Wednesday and Tuesday, Thursday and Friday they close early.

Ms. Olyha made a motion to declare the board Lead Agency, seconded by Mr. Straub and the motion carried unanimously. LEAD AGENCY.

Mr. Bell advised the applicants they needed to respond in writing to the public hearing comments.

BIXBY SUBDIVISION WETLANDS PERMIT – Proposed 2-lot subdivision located on Maloney Road containing 11.040 acres (Grid No. 6360-03-310014)

Mr. Bell reminded the board that this subdivision received final subdivision approval last year and the board issued a re-approval of that and it needs to have the wetlands permit granted re-approval as well.

Mr. Bob Gray of Morris Associates was present. He said the wetlands permit was needed for the stream crossing for the common driveway that serves the 2 lots.

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

Madeline D'Angelo of 223 Maloney Road spoke. She said she had some environmental concerns. She said the Segals had previously owned this property and they were also builders and they were never allowed to build on that property because of the wetlands and asked why it was being allowed now, especially with the concerns of how precious our wetlands are. She said she realized they wanted to put the houses in the rear on the higher portion of the ground but there is an access road that is going to come off from Maloney and that is a long distance. Mr. Bell asked if the access road she was talking about was their driveway. Mr. Artus spoke. He explained the wetlands permit was for the stream crossing. Ms. D'Angelo said during the monsoon type of rains that we get on occasion, that little stream is no longer a stream and it fills up quite a broad portion of that area. She asked who would be maintaining it. She asked about the DEC and if they check to see if the Wappingers Creek is being damaged. Mr. Bell asked Mr. Gray if this required a DEC permit and Mr. Gray replied yes. Mr. Bell said there are detailed plans on how they are going to build that and how the structure would handle the situation she is talking about and it went through a thorough review by the town when they were originally given approval, as well as the DEC approved it as well.

Mr. Bell said the DEC issued a permit when the board granted approval. Ms. D'Angelo asked who was maintaining the driveway. Mr. Gray responded the people that own the driveway. Mr. Gray said there was a driveway maintenance agreement that gets filed in the County Clerk's office that dictates how the grading and snow removal and everything else on the driveway that these 2 properties share.

Mr. Bell asked Ms. D'Angelo if it was her concern how the driveway would be maintained. She replied no, that she was concerned about the wetlands. Mr. Bell said the original plan is to provide a crossing with minimal impact and he added he wasn't sure what she meant by who is responsible for maintenance.

Ms. D'Angelo said she understood the building of the driveway, but once the driveway is in and the houses are built. Mr. Bell asked Ms. D'Angelo if she meant once the houses are built that the driveway doesn't collapse and fall into the stream, then Mr. Gray's answer applies. He said there is a legal arrangement put in place by the 2 different properties which spells out what their shared responsibilities are for that shared entity.

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

Ms. Valk said no SEQR determination was necessary because this could be characterized as a type II action and they are renewing an already issued permit and there's been no change in circumstances.

Mr. Gunn made a motion to re-issue the wetlands permit, seconded by Mr. Straub and the motion carried unanimously. WETLANDS PERMIT

KUNKEL SPECIAL USE PERMIT – Proposed Special Use Permit located on Cramer Road (Grid No. 6361-04-853370; accessory apartment

Ms. Kunkel said they had an issue with the newspaper and did not receive the notice of publication. She said she contacted them and was told they couldn't fax it or e-mail it. Mr. Bell asked her if she had a copy of the notice that appeared in the newspaper. Ms. Kunkel replied no. Mr. Bell asked Ms. Valk for her advice. Ms. Valk determined that they could hold the public hearing and grant the permit contingent on the affidavit being brought into the office within 7 days.

Mr. Bell said they could hold the public hearing and asked Ms. Kunkel to explain to the board what the application was for. Ms. Kunkel said she was asking for a transfer for a Special Use Permit on a home that they were purchasing at 56 Cramer Road. She said there was already a permit, they just needed the transfer for an accessory apartment. Mr. Bell asked her what it would be used for. She replied her brother would use it for a short time and then it would remain unoccupied.

Mr. Bell 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 Mr. Rosenfeld and the motion carried unanimously. PUBLIC HEARING CLOSED.

Mr. Straub made a motion to grant the Special Use Permit, seconded by Mr. Gunn and the motion carried unanimously. SPECIAL USE PERMIT.

OTHER BUSINESS:

MARSH SUBDIVISION – Proposed 2-lot subdivision located on Lauer Road containing 5.095 acres (Grid No. 6460-03-173138); discussion and update.

Mr. Richard Marsh appeared before the board regarding this application.

Mr. Marsh said he was before the board a year ago and they submitted more plans since then with one change. He said there was a question raised on the building square and it being in grades greater than 25% so they had to shift the building square. Mr. Marsh said there were 3 variances granted. First was for relief from the R-120 ground water overlay because the property will be undersized, Second was for the 200' square and the third was for a use variance based on the fact that the subdivision will contain the existing _____ that are already on the properties.

Mr. Bell said it sounds like the applicant has modified things and obtained variances. Ms. Livigni said Zoning needed to review this again to make sure everything was ok.

Mr. Bell and the board set an escrow for \$1,000. Ms. Livigni said she would like to have Zoning put in writing that this is now in conformance. Mr. Bell said that was fine. Ms. Livigni said it would need to be given to Walter Artus.

The Planning Board set the public hearing for November 17, 2009.

LANDS OF MILEA LOT LINE REALIGNMENT (Lot 25) – Proposed Lot Line Realignment located on Cramer Road/Frost Hill Rd. containing 3.08 acres (Grid No. 6461-03-269188); initial presentation.

Mr. Richard Milea appeared before the board. He said back in 2004 when Frost Hill was first developed Montfort had put a sales trailer on the property and they had said if they kept the trailer there, they would convey a piece of property behind his house for him. The land consists of 2 easements that is not buildable but it serves as a buffer for him. This was in June, 2007 and he said he probably should have known that he wasn't going to keep his commitment because he turned to him and his wife and said you are great people and he should have known at that time that Mr. Monfort was pacifying him. Mr. Milea said he's made numerous calls asking him when he was going to get the property. Mr. Milea said Mr. Montfort responded that he would take care of it but meanwhile the zoning changed. So Mr. Milea said \$2,500 later he was before the board asking for the property. He said he had a contract and a letter from the Zoning Board stating that they would agree to the variance.

Mr. Milea referred to the last page he referred to a section that said property conveyed to Milea in June, 2004. He said he's made repeated calls to Mr. Stenger and received no response.

Mr. Bell and the board went over the plans with Mr. Milea showing the area that was supposed to be conveyed to him. Mr. Bell said this appeared to conform with the requirements for a public hearing. The board set an escrow for \$250.00

DUTCHESS COUNTY ANIMAL HOSPITAL –

Mr. Brian Stokosa appeared before the board. Mr. Stokosa updated the board. Last time they were before the board the issue of demolishing the barn was discussed. He said when he was out there to meet the DOT, there was a request that since the structure is within the right-of-way, they would try and provide some assistance in either material or help take down the barn, they agreed. He said the DOT said they could do something, but they didn't know what it would be. Mr. Stokosa said they then revised their plans accordingly to take down the barn and by them taking down the barn section, they were able to move the entrance closer which saved on fill. Mr. Stokosa said DOT came back saying they had no money for anything so they couldn't do anything.

Mr. Stokosa said now they want to move the driveway location back to the original location they showed and they weren't going to do anything with the barn and everything

else was staying the same. He said it was a shift by about 25'. Mr. Stokosa said the re-submission was just for the shift in the driveway. Mr. Bell said it would also show the building because the original site plan that was approved did not have the building on it. Mr. Stokosa said the biggest issue is the Animal Hospital has to be in by March 1, 2010 which means they have about another month until the asphalt plants close which means they need this asap.

Mr. Stokosa said he hoped they could wrap this minor change up in 1 meeting and submit the revised plan showing the entrance. Ms. Livigni said she could handle it. She said the escrow was in the negative and asked the applicant to replenish it. Mr. Stokosa said they would take care of that as well as pay the fees.

Mr. Bell said this was an amended site plan and added the board needed to waive some requirements. Mr. Straub made a motion to waive the public hearing, seconded by Mr. Rosenfeld and the motion carried unanimously. PUBLIC HEARING WAIVED.

Mr. Bell said he didn't believe the board needed to waive much more except the amended site plan fee. Mr. Bell said SEQR did not need to be redone.

Mr. Straub made a motion to grant amended site plan approval contingent on compliance with the originally approved site plan, with the only change being the entrance, seconded by Mr. Rosenfeld and the motion carried unanimously. AMENDED SITE PLAN APPROVAL.

TACONIC CROSSINGS – DISCUSSION

Mr. Jason Page and Darin Page appeared before the board. Jason spoke. He said Taconic Crossings currently has Paragon Aquatics, DRA Imaging under construction and Dutchess County Public Works. He said Dutchess county has been using the space and it's called swing space. It's interim. Mental Health was there and they are gone. Jason said Public Works would be out in May, 2011. He said they have an agreement with a perspective tenant that is going to move their headquarters to LaGrange which will bring over 200 employees and they will be occupying the upstairs space, which is 27,000 sq. ft. which is where Cell One was.

Jason said they would also be occupying 8,000 sq. ft. downstairs next to DRA. He said when the County moves out in May of 2011 they would be moving another operation in there and taking over the County Space. He said the issue is parking. Jason said they don't have enough. He said the existing plan is pre Houlihan & Lawrence site plan approval. He said they are in the process of doing a survey that is going to have an as-built and what their proposal is. Jason said the goal is for site plan amendment for additional parking to accommodate the new tenant. He said they need to be in 2/3rd's occupancy by Feb. 1, 2010, which is 3 or 4 months away. Jason said because of the blacktop plants closing in December and opening in the spring, they were not going to be able to get approvals from the board and complete the blacktop. In order to meet this deadline here by Feb 1, 2010, they wanted to know if it was possible to accommodate the

tenant by allowing them to install item 4 over the winter and of course it would be at their own risk.

Ms. Livigni asked Jason to explain what they would be doing at their own risk. Jason referred to the area on the map. Ms. Olyha talked about that not being on the same property. Mr. Bell asked if the parcels had been merged yet and Jason replied no. Mr. Bell said these are 2 parcels owned by the same people and they are in the process of merging them into a single parcel, which is just an administrative action.

Mr. Bell said the site plan amendment the applicant has before the board will cover the entire parcel and the only change being proposed is some different striping in the back and a new parking lot. Jason said they are not changing the building, just adding parking. Mr. Bell said the board is being asked to take a parallel path. The amended site plan approval will be for permanent parking and while they go through that they are asking if they can put Item 4 down at their own risk. Mr. Artus asked how many spots. Jason replied 220 spaces.

Ms. Olyha brought up the issue of the trees on the Houlihan & Lawrence property. She said she was under the assumption that the trees were not going to be cleared and it was cleared and she asked Mr. Page if they did that in anticipation of this project. Jason replied no.

Ms. Olyha talked about how it was supposed to look like a historical house to fit that corner and when it was built every single tree was taken down and that was not supposed to be. Jason said there was never anything on the site plan that said they had to keep those trees. He said those trees were marked to be taken down. The issue of the trees was continuously discussed amongst Ms. Olyha and Jason Page. Mr. Page said this area was never called to be preserved, otherwise they would have preserved it.

Ms. Olyha continued to discuss the issue of the site plan and the removal of the significant trees that were not supposed to be removed. Mr. Page said those trees were never stated by the board to keep the trees. Ms. Livigni said if wasn't on the site plan to be preserved she didn't know if the board could hold that. Ms. Olyha said the board discussed this as being a historical house and historical area and preserved by character and if they put in a parking lot it's no longer preserving the historical character of the site.

Ms. Olyha said if they put in a parking lot, it will not longer look a beautiful historical house. Jason and Ms. Olyha continued to discuss the issue of the parking and trees.

Ms. Livigni said the applicant will submit a landscape plan and Jason said of course they would. Mr. Artus said relative to the area of disturbance that would be required to do this, what kind of area were they talking about. How much area were they asking to disturb at their own risk. Jason replied around 20,000 sq. ft.

Mr. Artus said they wanted it under an acre so they wouldn't get hit with their SPEDE. Ms. Olyha asked instead of putting the ones along the front, could they fit them in the

back. Jason said no, they were already blasting to get the spaces into the hill. He said if they didn't need the spaces they wouldn't need to blast rock to get them in. Ms. Olyha said the idea is to keep the parking away from the front. Jason said they were using every possible square inch of the back for parking and they would be proposing a 15-20 foot cut in the rock. Jason said they were open to heavy landscaping. Jason said this is in the early stages with Phase II in May of 2011.

The issue of putting a light at the intersection of Velie Rd. and Rte. 55 was brought up. Jason said the DOT has no plans for a light there. Ms. Livigni said she would like them to talk to the DOT about the additional parking but that it wasn't contingent on the discussion now.

Mr. Donohue said he didn't believe they had an approval or denial before the board. If according to the town code is that they make an application and start the process they may be able to convince the enforcement dept. they are going through the process and that no enforcement will begin on the site as they are working towards a plan, we can neither grant nor deny.

Mr. Bell said the board can give them an idea of the board's reaction to their concept overall and whether the board approves of them proceeding under their own risk. He said those kinds of determinations typically keep the enforcement officers away.

Mr. Donohue asked how do we preserve a historical site with parking around it and he said it was the burden of the applicant to come up with a nice landscape plan that compliments the historical house.

Jason said they had no interest in the general public seeing the cars in the parking lot. It was the consensus of the board they could proceed at their own risk and the applicant would come back to the Planning Board in November. The Board set \$1,000 escrow.

Mr. Straub made a motion to adjourn the meeting at 8:50 p.m., seconded by Mr. Gunn and the motion carried unanimously. MEETING ADJOURNED

Respectfully submitted,

Eileen Mang
Planning Board Secretary