

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday June 15, 2010. Chairman Alan Bell called the meeting to order at 7:30 p.m. Board members Dennis Rosenfeld, John Gunn, Tony Brenner, Bob Straub, Stacy Olyha were present. Joe Zeidan and Kevin Donohue were absent. Also present was Wanda Livigni, Administrator of Public Works, Walter Artus from Stormwater Management Consultants and Rebecca Valk from VanDeWater & VanDeWater.

Mr. Rosenfeld made a motion to accept the minutes of May 18, 2010, seconded by Mr. Straub and the motion carried unanimously. MINUTES ACCEPTED.

PUBLIC HEARINGS:

PINE HILL ESTATES II SUBDIVISION & SPECIAL USE PERMIT – Proposed subdivision and Special Use Permit located on Cramer Road.

Mr. John Andrews of Rohde, Soyka and Andrews appeared before the board.

Mr. Bell addressed Mr. Artus and asked about the document in the board's package to establish Lead Agency and asked if that was because the board didn't do it yet. Mr. Artus said he prepared the document for the board's intent to be Lead Agency to circulate and once the 30 days is up, the board can declare themselves Lead Agency.

Mr. Andrews presented the affidavit of publication and green cards. He presented an agricultural data statement and said it indicates that there are no other properties except the property to the west owned by Pine Hill that are in the agricultural district and that was the statement that was required.

Mr. Andrews said one of the principals, Pat Reilly was also present. He said they are proposing a 2-lot subdivision of a separate parcel, one lot would derive access from Old Overlook Road the other lot would derive access from Cramer Road. There is also a small parcel that Mr. Reilly acquired and it gives them frontage on Cramer Road. He said they would realign the lots and would both be exactly 3.99 acres. Each lot would contain a house, a well and septic. Mr. Andrews pointed out the power lines and the balance of the Pine Hills Estates project that was previously before the board has no plans in the immediate future to move forward. He said these lots were always separate and distinct and always served by wells and septic so they propose to move ahead with this subdivision.

Mr. Bell asked if these 2 lots were a part of that original subdivision. Mr. Andrews replied yes, although they are on a separate parcel of land. Mr. Bell asked if the other application would be modified. Mr. Andrews replied at some point in the future when they pursue it, yes. Mr. Bell asked where that was in terms of approvals. Mr. Andrews said they had a public hearing and there were no approvals granted. He said the board did a site visit and it stalled.

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

Linda Mac Isaac of 14 Cramer Road asked if an environmental impact be done on this project. Ms. Valk said she didn't believe the board knew yet. She said that was one of the purposes of the public hearing, to bring forth environmental concerns there may be and the board will make a determination to issue either a negative or positive declaration. Ms. MacIsaac expressed her concern for the water table. She showed the board where her property was. She said a few years ago when they had a dry spell, she was sucking air on her well and now there will be a house directly up the hill behind hers. Ms. MacIsaac talked about the septic and asked how far it was from her well. She asked if that sprung a leak what would happen because it would run down hill. Mr. Bell said there are guidelines that are generally used for downhill and uphill to keep those things separate but ultimately whatever is proposed would have to be approved and signed by the Dutchess County Board of Health, and added they have jurisdiction over water and septic. Ms. MacIsaac said she was concerned about contaminating her well. Mr. Bell said they would get no approvals until the Board of Health approved it.

Ms. MacIsaac expressed concerns about drainage and asked what a Special Use Permit is. Mr. Andrews said this particular property falls in the Ridgeline Protection Overlay Zone and actually the entire property is in it. As a consequence, any development of any type, particularly residential, requires a special permit under the conditions of the ridgeline overlay zone. Mr. Bell said the town designated all areas in the town that are above a certain elevation as ridgeline protection and the idea is to require people to have an extra permit to build in that area so the board can control the degree to which the development impacts the vistas of the tops of hills, so it just requires an extra permit to allow them, which gives the board an extra level of review to determine the placement of the house.

Ms. MacIsaac asked about the trees and if they would be kept. Mr. Andrews said they plan on keeping as many of the trees as they can. He said they will have to do some clearing for the driveway. He said they have tried to make provisions where they minimize that clearing and taking some of the openings that exist and running their facilities through there. He said they are not going to avoid them all, but they are going to try and save as many as they can. Ms. MacIsaac said here real concern is the water table, because if her well goes dry she is sunk and added she only has $\frac{3}{4}$ acre and not a whole lot of area to drill a new well. She asked the board to give serious consideration to that. She said she is all for development, but at the expense of what. Ms. MacIsaac asked if these were affordable houses, work force housing. Mr. Andrews said they are not supposed to be and added are they houses that people can afford in this market, the answer is yes, but he wouldn't consider them work force housing.

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 circulate for Lead Agency, seconded by Mr. Gunn and the motion carried unanimously. CIRCULATE FOR LEAD AGENCY.

Mr. Bell said there was a comment from the Building Inspector's office and one of the things the board might want to consider is changing the name and asked if that was what they were doing with the II scrolled in. Mr. Andrews replied yes.

FIGA SPECIAL USE PERMIT – Proposed Special Use Permit located on Smith Rd. (Grid No. 6360-04-703236)

Mr. Figa said he bought this house in November, 2008 and it had an apartment in it for a mother/daughter. He said his mother lives in it now. He said his neighbor made a complaint saying it was an illegal apartment so he went to the Building Department and spoke to Ken McLaughlin and took the guidelines in order to legalize it as an accessory apartment. Mr. Bell asked Mr. Figa if he was building anything, and asked if it was existing. Mr. Figa replied yes it was existing. Mr. Bell said so you are just asking for a permit to use it.

Mr. Figa said he bought the house and closed on it and got a mortgage on it and he is going tit for tat with his neighbor and Mr. Figa said his neighbor said something to the town and here he was again.

Mr. Bell declared the public hearing open and asked for comment. There were none. Mr. Rosenfeld made a motion to close the public hearing, seconded by Mr. Gunn and the motion carried unanimously. PUBLIC HEARING CLOSED.

Mr. Bell asked if the board had any reason to believe that they shouldn't grant approval to this. Mr. Artus said he hasn't been involved with this. Ms. Valk asked if Ken did a letter on this. Mr. Bell replied yes. Mr. Bell said Ken's letter indicated they have applied for a Special Use Permit for an accessory apartment and the application has been scheduled for a public hearing.

Mr. Bell said it was his understanding that these things are generally reviewed by the Zoning Department and don't appear on the agenda unless they believe everything is in order. Ms. Valk asked Mr. Figa if Mr. McLaughlin had commented if the previous owner had gotten a permit and Mr. Figa replied no. Mr. Bell asked Mr. Figa how many bedrooms were in the house. Mr. Figa said 3. Ms. Livigni asked about the septic and Mr. Bell said the septic looks like it was certified for a 3-bedroom. Mr. Figa was asked if that included the accessory apartment and he replied yes.

Ms. Livigni asked, so the house was built with the accessory apartment? And Mr. Figa replied yes. Mr. Bell said it was that way when they bought it and Mr. Figa added the mortgage company let it slip through, nobody picked up on it until his neighbor made a complaint. Ms. Livigni told Mr. Figa he and his neighbor were doing it to each other and added it was irrelevant to the board. Mr. Rosenfeld asked Mr. Figa when he bought the house and Mr. Figa replied November, 2008. Mr. Rosenfeld asked prior to him buying it,

the person who owned it before him, did he also use it as a mother/daughter. Mr. Figa said the son was living downstairs and the father was living upstairs. Mr. Rosenfeld asked was there an issue then. Mr. Bell said we have no way of knowing if they had a permit and if he did it wouldn't matter because it would have lapsed.

Mr. Bell said he didn't see how that was relevant, but what was relevant whether he meets the conditions of the statute and said it was his understanding these things were not put on the agenda unless the Zoning Administrator has determined that it does meet all those. Ms. Valk said she was surprised that the lawyers at the closing didn't pick up on it because you usually have a separate CO for an accessory apartment.

Ms. Livigni said last month when his neighbor came in for an accessory apartment, there was a whole issue about his septic and he was saying that his cottage was existing. Mr. Figa said he has 2 dwellings. Mr. Bell said from what he recalled the documentation the board had regarding the septic didn't indicate a 2nd house. He said it looked like to him that the Department of Health approval for that involved a number of bedrooms in one structure so the question was does that matter or does it need the Board of Health to take another look at it. Mr. Bell said in this case you are talking about a single structure with 3 bedrooms and the Board of Health approval he was looking at would appear to indicate that it gives approval for 3 bedrooms in a single structure.

Ms. Livigni asked if this was built and sold with the accessory apartment. Mr. Bell said whether it was originally approved as an accessory apartment or sold that way doesn't have anything to do with the fact that the Board of Health approved the structure with 3 bedrooms. He said the original house could be built with 3 bedroom and at some point added a kitchen, but that he didn't think that had anything to do with what they were talking about.

Ms. Livigni said it might be simpler just a recommendation for both cases, to leave the determination of the suitability of the septic up to the Building Inspector. She said this question came up with last month's application and she still didn't have an answer on it. Ms. Valk said either the Building Inspector or Greg, one or the other. She said she recalled at the last meeting Mr. Bolner saying that 3 bedrooms in 2 units is a little different than 3 bedrooms in one unit. Ms. Valk said she didn't think there was anything wrong with asking Mr. McLaughlin or Mr. Bolner to take a look at it and give it's ok. Ms. Livigni said typically if there is a question Ken usually asks them to get a licensed engineer to write a letter certifying the septic can handle what's on site. Ms. Livigni said she didn't mean to take the board's time up with this discussion, she was just trying to find a way to resolve 2 similar situations. Mr. Bell said they seemed fundamentally different to him, again repeating this is an existing single structure with 3 bedrooms in it and the board of health approval is for a septic system to support 3 bedrooms, like he said if you are adding a kitchen so the person has some level of independence in the house, it doesn't really have anything to do with the septic so he didn't understand what they were asking Ken to approve that hasn't already been approved by the county. In the other case, the board of health approval seemed from what they saw, to indicate some number of bedrooms in a single structure with no mention of there being a 2nd structure so their

question was simply should they have somebody certify the fact that there are 2 structures using this instead of one and does it make a difference.

Mr. Bell said it seemed to him to be different things so he didn't know what Ken would be asked to evaluate when this is a single house with 3 bedrooms and that's what they have approval for.

Mr. Artus said the only question isis it 3 bedrooms to include the accessory apartment or 3 bedrooms plus the accessory apartment. Mr. Figa replied 3 inclusive. Mr. Bell said to Mr. Figa he thought Mr. Figa told him there were 3 bedrooms total in the house. Mr. Figa said he went to Michael Berta, architect and Mr. Figa told him you can have as many bathrooms and kitchens as you want, but you can only have 3 bedrooms because that is what his septic system can hold. Mr. Figa said he went to Ken and he said Ken was going to write the board a letter saying that everything was approved and he spoke to an engineer and he said there really was no reason to do it, he said he wasn't paying \$1,000 for a letter just for him to say that when his house was built for 3 bedrooms. Ms. Livigni said she was just trying to move the responsibility off the board and offered however they want to do it was fine with her.

Mr. Gunn asked if Ken was going to address the 2 structure issue and Mr. Bell said he believed that is what the board asked him to do last month. Ms. Valk said she believed there was a discussion going on with DOH to make sure that approval covers everything that they believe it is to cover. Mr. Bell said aside from the fact that these 2 applications happen to neighbors he didn't see any relationship between the 2 as far as the issues are concerned and asked if the board agreed. Mr. Straub replied he agreed.

Ms. Valk said she didn't think they could blame each other, they each have to get their permits. Mr. Bell said what happened last month didn't strike him as being relevant to what is being discussed now.

Ms. Livigni said she doesn't know what was built originally. Ms. Valk asked if Ken had a copy of the plans of when the home was built and the building permit was issued because he can verify it is the same plan. Mr. Bell referred to the hand drawing of Mr. Figa's upstairs and indicated it showed 2 bedrooms and the downstairs with the 3rd bedroom. Mr. Bell asked the feeling of the board. Mr. Rosenfeld said it is 3 bedrooms and the septic is for 3 bedrooms, he was all for approving it. Ms. Olyha asked if Ken checked the real property card and asked if there was a flag, he would have flagged it, right?

Mr. Bell said it was his understanding that all of this is checked before it appears on the agenda. He said he has had that conversation numerous times with Ken. Ms. Valk said the other thing that can be done is Ken can do a quick site visit to make sure it's in compliance. Mr. Bell asked why would we do that. Ms. Valk replied to make sure it's actually 3 bedrooms. Mr. Bell asked why would we do that when the board has no reason to believe it is not. Ms. Valk said because it's another way to check. Ms. Olyha said Ken wouldn't have sent it to the board if it wasn't ready. Mr. Bell said the board has

never asked for that in the past. Ms. Valk said she was just giving a suggestion to resolve it.

Mr. Bell said there were comments at the previous public hearing of alleged violations that they needed to investigate to determine whether they were true or not, and added the board has no reason to believe there are any violations in this case because no one has asserted that there are. Mr. Bell asked right? Ms. Livigni said however the board would like to proceed.

Mr. Figa asked did he happen to follow all of the guidelines, Mr. Bell replied that was his understanding. Mr. Figa said he didn't see what the problem was, every time he comes here someone always has to have a problem and it keeps delaying him. He said he followed all the guidelines, Ken said yes and he is just trying to get his CO. Mr. Bell asked the board for any objections to granting the permit. There were none. A motion was made by Mr. Straub to grant the Special Use Permit, seconded by Mr. Rosenfeld and passed unanimously.

Mr. Figa asked how he can get the CO. Mr. Bell said the board granted the permit, CO's is Ken and the board has nothing to do with it.

MOUNTAIN VIEW REALTY – Proposed Special Use Permits (Grading and wetland permit) located on Maloney Road containing 53.5 acres (Grid No. 63659-01-265780) FOR PURPOSES OF OPENING PUBLIC HEARING AND ADJOURNING UNTIL JULY, 2010.

Mr. Straub made a motion to open and adjourn the public hearing to July 20, 2010, seconded by Mr. Gunn and the motion carried unanimously. PUBLIC HEARING ADJOURNED.

OTHER BUSINESS:

KONDAS SUBDIVISION – Proposed 2-lot subdivision located on Freedom Road containing 141 acres (Grid No. 6462-01-191677); consideration of SEQR determination, preliminary and final subdivision approval.

Don Solomon from Divine Surveying appeared. Stephen Kondas was also present. He said he received a comment letter and most comments were satisfied besides things like endorsing the plat. He said he did a metes and bounds description of the easement. He brought up # 13 concerning easement language and maintenance agreement and asked if someone could instruct Mr. Kondas how he could go about doing that. Ms. Valk said she could provide the document. Mr. Bell asked Mr. Artus to comment on # 8 and asked if that would prevent the board from granting approvals or not. Mr. Artus said it shouldn't, this falls under the non-realty subdivision, non-jurisdictional and the Health Department will endorse the plan.

Mr. Straub made a motion to deem the project as an unlisted action and to grant a negative declaration pursuant to SEQR because the board finds that the project will not have a significant adverse impact on the environment because the impacts have been identified and suitable mitigating measures have been incorporated on the plans and/or in the reports. The motion was seconded by Mr. Brenner and carried unanimously. **NEGATIVE DECLARATION.**

Mr. Rosenfeld made a motion to grant preliminary subdivision approval, seconded by Mr. Brenner and the motion carried unanimously. **PRELIMINARY SUBDIVISION APPROVAL.**

Mr. Brenner made a motion to grant final subdivision approval, seconded by Mr. Straub and the motion carried unanimously. **FINAL SUBDIVISION APPROVAL.**

Mr. Artus said it should be amended to subject to the review of the metes and bounds description and added it was in his resolution.

CRAMER ROAD EQUITIES – Proposed 6-lot subdivision located on Linda court/Jeffrey Drive containing 30.30 acres (Grid No. 6461-03-115346); update/discussion.

Mr. Dennis Lynch of M.A. Day Engineering appeared before the board. Mr. Lynch said this project hasn't been before the board in quite some time. He said it is one existing home on approximately a 30 acre lot and they are proposing 3 new lots with the 1 existing lot. Mr. Bell asked if that was all currently 1 lot. Mr. Lynch replied yes. Mr. Lynch did not use the microphone and his comments were not audible.

All three homes will have individual wells and septic. When they were before the board in July 2008 they received a Neg Dec and submitted to the Board of Health, which took a while and he said they do have approval from them now and received it in May for all 3 lots and wells. Mr. Lynch the disturbance is over an acre and they are in a single home development and don't have to do a full SWPPP but they are providing some storm water in the form of 2 retention basins along lot 3 and 1. Mr. Bell asked if there is anything substantially changed since 2008. Mr. Lynch replied no, they just had to go to the board of health. Mr. Lynch said they did some deeps and a test well which took time.

Mr. Bell said this is going to have to be brought up to speed with the consultants. Mr. Artus replied correct, he said he did review it and based on the comment letter from 2008, there were a couple of items that were addressed, but there were still some outstanding comments before they can come in for preliminary. Ms. Livigni said there is an established escrow so the consultants can do proposals and request the actual amounts needed at that time. Mr. Bell asked do we need to have more comment letters or do we need them to respond to the ones we already have. Mr. Artus said they need to respond to the ones they have, he said there were one or 2 minor comments relative to the new permit requirements since 2008. Mr. Bell said it's only been 2 years and there's been no changes so he didn't see any reason to re-do the public hearing. The board agreed.

Mr. Bell told Mr. Lynch his next step was to work with the consultants by answering comment letters and concerns. If Bell said if the town needs more money to fund it, they will let you know.

Ms. Olyha said one of the comments said the board should give direction in the visual impact of the plantings along the buffer strip and asked if that could wait. Mr. Artus said this is in the Ridgeline Protection Overlay Zone and said this really is wedged in up there with the Lincoln Ridge Subdivision and added he didn't think there was a visual impact associated with it. Mr. Bell said it looks like these houses are going to be lower on the hill than the ones already there. Mr. Lynch said they are set far back from the road and it is the intent to keep as much of the existing trees as possible. Mr. Artus said the entire parcel is in ridgeline and Mr. Bell said they may need a special permit. Mr. Lynch said it was a part of the original application. Mr. Bell advised Mr. Lynch to address the concerns and the board would see him when he was ready.

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); consideration of SEQR determination.

Jason Morris of M.A.Day engineering appeared. He said at the last meeting they opened and closed the public hearing. He said he provided a written response to the public hearing comments and they were now working to resolve the consultant's comment letters. Mr. Morris said tonight he was looking for a Neg Dec.

M. Straub made a motion to deem the project as an unlisted action and to grant a negative declaration pursuant to SEQR because the board finds that the project will not have a significant adverse impact on the environment because the impacts have been identified and suitable mitigating measures have been incorporated on the plans and/or in the reports. The motion was seconded by Mr. Gunn and carried unanimously. **NEGATIVE DECLARATION.**

BARMORE/SKIDMORE RD. LOT LINE REALIGNMENT – Proposed lot line realignment located on Skidmore Rd. & Barmore Rd. containing 66.45 acres (Grid Nos. 6561-03-220285; 148296; 210379; 180378); initial presentation.

Dennis Lynch of M.A. Day Engineering was present. He said they are proposing to do a lot line realignment between 4 parcels. He said the site is located on the corner of skidmore Rd. and Barmore Rd. He showed the board original lot # 1 which is just over 54 acres, lot 2 over 11 acres and 2 existing lots just over ½ acre and 3.5 acres.

Mr. Lynch showed the board all of the lots. He said as part of this application they are doing a lot line realignment conveying .03 acres to lot 4 and they would be conveying .03 acres with a net of zero acres, giving frontage and the 15 feet connective trail and showed the board where the existing trail went.

Mr. Lynch moved away from the microphone and his comments were not audible.

Mr. Bell reminded Mr. Lynch to use the microphone. Mr. Paul Doherty was present and spoke. He said the one piece they were missing was the section he referred to up to Barmore Rd. He said 15 years ago the property was sold and he tried to convince the new owner to sell him property for 15 years and finally convinced her. He said 5 years ago he told her when she sells her house to sell it to him and cut off the piece. He said now she agreed to sell him the little strip of land and she didn't want any extra land because she was afraid her taxes would go up so they agreed to swap and even amount. Mr. Bell asked where was the strip she was getting. Mr. Doherty showed the board. Mr. Bell said the lot was not changing in size, just proportions. Mr. Lynch said the 3rd lot they would be increasing it by 2.3 acres and added from lot 1 there is approximately 2.4 acres and from lot 2 there is about .17 acres for a total of 2.66 acres which he showed the board the area.

Mr. Brenner asked how wide was the strip. Mr. Lynch replied 15 feet. Ms. Livigni asked Mr. Lynch if he saw the Zoning Department's comment letter and modify this plan. Mr. Lynch replied no. Ms. Olyha read the portion of the comment letter...."Lot # 3 will be become more conforming as a result of the lot line realignment, however it is still non-conforming. The current size is .35 acres and is proposed to add 2.31 acres for a total of 2.66 acres. It is our recommendation that the applicant make lot 3 conforming. Lot 4 appears to be equal acreage land swap and will provide approximately 15 feet of frontage on Barmore Rd. to complete the nature trail. It is recommended that the applicant identify each lot on the parcel with a lot number."

Ms. Valk spoke. She said there is nothing in the LaGrange code that says even if you are making it less non-conforming, that it takes you out of the variance, so they would need an area variance. Mr. Bell said so the ZBA might take that into consideration but the Planning Board can't. He added what they are asking to approve is non-conforming---period. Ms. Valk said the board can take it into consideration as to whether or not you think it is a good proposed plan, but you can't approve it until the ZBA issues are resolved.

Mr. Doherty said he didn't understand when you are improving from a minimum 3/10ths of an acre and making it almost conforming, you are certainly improving it. Mr. Bell said those are all great arguments for the ZBA. Mr. Bell told Mr. Doherty he is proposing something new and different, an existing non-conforming is one thing, but that he is proposing is something new and the Planning Board can't approve a new map that doesn't conform to the zoning code. The ZBA can grant him a variance based on it being less non-conforming than it previously was so there is an improvement over what it was and that is a great argument to make to the ZBA, but he said he is hearing that the attorney is saying that the Planning Board cannot approve it non-conforming.

Ms. Valk said some towns do say if you are making it less non-conforming you can do an as-of-right. LaGrange does not have that which means you have to take the step and go to the ZBA.

Mr. Doherty asked how do you ever do anything with the .65 acre lot. Ms. Valk said if it stays that same size, then there is a saving provision but because you are changing. Mr. Bell said when you pass a zoning law you can't suddenly tell existing houses on existing lots that they can't exist anymore because you changed the rule, but you can prevent changes which are not conforming to the code and that's the distinction. Mr. Bell said in order for the board to even consider it, you've got to get a variance from the ZBA. Ms. Valk said it's really just one simple step, and added she doubted the ZBA would have a problem with it and concluded that she can't speak for them.

Mr. Bell said their general rule is if you are making something less non-conforming, they generally are not in a position to object to it. Mr. Bell told Mr. Doherty the argument he was making was very reasonable, the problem is you are making it to the wrong board.

Ms. Valk said certain boards only have certain authority and that's not an authority this board has. Ms. Livigni said she apologized to Mr. Doherty for wasting his time. Ms. Valk said she didn't think it was a waste of time. Mr. Bell agreed, and added this was their initial presentation and that's the whole purpose is to talk through what needs to get done before you spend too much money and go too far in the process so we are not wasting his time. Ms. Valk said the ZBA wasn't meeting until the 12th next month.

Ms. Olyha asked what acreage does he actually need. Ms. Livigni said it looked like about ½ acre or less. Mr. Lynch said it's about .2 acres. Mr. Bell said the other option is to move the line a but so the total new lot is 3 acres and they don't have to go to the ZBA.

Mr. Artus said he would have to make it come out to 120,000 sq. ft. Mr. Doherty said if they do that and bring the maps in, could they get on the agenda for a public hearing next month. The board discussed lot 4 and said it was an even swap so it wasn't changing in size but changing in terms of its boundaries, and it's not conforming so that would have to get a variance.

Ms. Valk said you can keep the lot the way it is and if you move it without bringing it into conformity you have to get the ZBA's approval.

Mr. Lynch asked if they could be on for a public hearing for July. Mr. Bell said the board can allow them to advertise for a public hearing for July with the understanding that the ZBA has to not only but grant them the variance. Mr. Doherty asked if they could do that at one meeting. Ms. Valk said they can, assuming everything goes smoothly. If it doesn't, the Planning Board would need to open the public hearing and adjourn. Ms. Olyha said they could listen to the comments. Ms. Valk said you could and added if they want to take the risk that for any reason the ZBA doesn't grant them all the variances, then they would have to have another public hearing because the map would be different from what the public commented on, if there are any comments.

Mr. Bell said even if they hadn't been granted the variance we could hold the hearing, adjourn it and as long as they eventually get the variance that's fine, but if they get denied

they have to change the map and starting all over again. Ms. Valk said yes, it's a judgment call on their part, given what is really not controversial variances whether they feel comfortable going forward on that path.

Mr. Lynch asked the board opens the public hearing and adjourns it and for whatever reason they don't have the variance, the public hearing would still be open and if they make any changes it would still be open for public comment so they wouldn't have to re-submit. Ms. Valk whether you have to have another hearing really depends on the extent of the changes. Ms. Valk said but if the map changes. Mr. Bell said the problem with that is the people who came who commented on the original map wouldn't know it changed. Mr. Lynch said they would know it was adjourned to the following meeting. Ms. Valk said they were beginning to over think this a little. Mr. Bell said if the changes were substantial enough his inclination would be to say they need to re-advertise so that people understand what they came in and commented on the first time isn't the same as now. There's a lot of assumptions that he didn't buy.

Mr. Bell said he thought the most likely scenario was the ZBA is going to say you are not changing the size of that one lot and the other one is becoming less non-conforming.

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

Ms. Olyha brought up Mr. McLaughlin's comment regarding numbering the lots. He said they are numbered and Mr. Bell advised Mr. Lynch to get that cleaned up before the public hearing.

Mr. Artus recommended if they get the variance, to reference it on the map that will be re-submitted.

The board set an escrow of \$200.00

ROGER REALTY AMENDED SITE PLAN – Proposed amended site plan located on Rte. 55) Grid No. 6560-01-743908); initial presentation.

Brian Stokosa of M. Gillespie appeared before the board. Mr. Stokosa said they went to the ZBA. He said they thought they were in C-1 but they are in C-2. Mr. Bell asked what they needed the variance for. Mr. Stokosa say this is a contractor's yard. Mr. Bell asked did they get the variance and Mr. Stokosa said yes and it was noted on the plan.

He said they also granted them a 5-foot frontage area variance and also rendered an opinion that the contractor's use was pre-existing, non-conforming. He said they are back at the Planning Board to discuss the 700' sq. ft. addition on the back of the existing building. Mr. Bell asked if that was the only change they were making. Mr. Stokosa replied yes. Mr. Bell asked about changes to parking. Mr. Stokosa said they are using the existing paved surfaces and they are required to have 15 and are showing 19. Mr. Bell asked if they were currently existing, Mr. Stokosa replied yes.

Mr. Stokosa said there was some material in the back they had to move off the property line. He said he is here to talk about some waivers they requested since it is considered a minor site plan revision and get to the next step to schedule a public hearing. He said the addition is for existing employees.

Ms. Olyha asked about a map with contours from the previous site plan and asked why they couldn't use it and have it verified. Mr. Stokosa said they show some contours around the building.

Ms. Livigni spoke. She said she informed Mr. Gillespie he should come in for a special use grading permit. She talked about a significant change in grade in the rear and she said the parking in the front was never approved in the site plan. She said when they did that there was a violation letter that was in the file.

Ms. Olyha referred to the requested waivers, one being topography and she said she wanted to see contours. Ms. Livigni said there is a significant grade change that was done to the back and the suitability of the fill concerned her and added maybe she was off base with that if their engineer is willing to certify that is suitable fill, but there is a significant drop off, the grade is real steep. Ms. Olyha said when they did the original, they did have contours over the entire map so if he willing to verify that those contours on the original map are ok and put them on this map, they are good. Ms. Livigni she wants this site plan to reflect what's actually out there with that turn-a-round or parking in the front. Mr. Stokosa said there might be a slight change in topography. Ms. Livigni said the amended site plan is not just for the addition, it is for the additional pavement in front plus the addition and she recommended a special use permit for grading.

Mr. Stokosa said this is something they could probably take care of before the next meeting. Ms. Olyha said the board cannot waive the location, height, design and size of sign. Ms. Olyha said only the ZBA has the authority. Mr. Bell said they want to waive the requirement of putting it on the plan and it's a requirement to have it on the plan. Ms. Olyha said it is already on the plan but it is not right. Mr. Stokosa said they are not planning on doing any modification to the sign. Ms. Olyha said they already have it listed on the plan but it is not currently congruent to whatever the plan is. Mr. Bell said nowhere on the plan does it say the height, design and size, just location. Ms. Olyha asked if the sign met current zoning. Mr. Stokosa said he wasn't sure and Ms. Olyha said the board cannot waive that if it doesn't meet current zoning.

Mr. Bell said the whole reason for asking them to put the height and design and size is to make sure it meets zoning. Ms. Valk said or Ken would have to render an opinion as to whether the sign is pre-existing non-conforming. Mr. Bell said this is a new site plan and the question was is it a new sign. Ms. Olyha said it is not a new sign. Mr. Bell said if you are proposing an amended site plan, the signs have to conform with existing zoning.

Mr. Bell said no to the waiver of the sign. Mr. Bell and the board discussed landscaping and buffer areas and said he was inclined not to waive that either, especially because of the letter he had from an adjoining property owner who wants screening. Lighting and

communication facilities and Ms. Olyha asked about proposed lighting and Mr. Bell asked if they were changing the lighting. Ms. Olyha asked if there was any security proposed lighting on the outside of the building whatsoever? Mr. Stokosa said no, other than what is there. Ms. Olyha asked about lights on the addition. Mr. Bell said this is an amended site plan and has to adhere to existing zoning and he wants to see the lighting too. Mr. Stokosa asked if it was for the entire site or just the lighting on the addition. Mr. Stokosa said this was strictly office, no nighttime hours.

Mr. Bell said when the board considered the amended site plan for Apple Valley, we made them take down all of the lighting structures and put up ones that conformed with the town lighting code. Mr. Stokosa said that's a different type of operation. Ms. Olyha said the lighting they also did on Titusville Rd. is not conforming to what they had said for the site plan either. She said that was supposed to turn off at 11:00 and it doesn't.

Ms. Olyha said the board has done this with several sights, they have to show what is existing is current with current zoning.

Mr. Bell referred to location type and design of all waste handling facilities and asked if that was dumpsters. Ms. Olyha said she saw boxes that weren't labeled. Mr. Stokosa said they could show if it's going to be on site, where it would be. Mr. Bell said that would be great.

Mr. Bell referred to the character and location of all power distribution and transmission lines. Mr. Stokosa said if it is buried he would not have any idea, but anything visual he could show. Mr. Bell asked if they were putting in new power for this, and Mr. Stokosa replied no, they are riding off the existing. Ms. Olyha said they have to know where it is before they dig. Mr. Bell said showing the things above ground would be sufficient.

Mr. Bell referred to grading and landscaping plan and heard Wanda say the applicant needed a grading permit and the board wasn't going to grant a permit without a plan. Ms. Livigni said because the contours have changed. Mr. Bell said they should also show some landscaping. Mr. Bell said he didn't think he cared about them showing the existing landscaping and the board agreed, just proposed new. Mr. Stokosa asked if they needed to show proposed new in the front on the site and Mr. Bell said that depended on any public comments that might come up so he didn't think the board wanted to waive it at this point. Mr. Bell asked the board if they were ok with not requiring to show all of the existing landscaping, and if at some point the board asks them to provide new landscaping the board would need to see that. The board was ok with that.

Mr. Bell referred to cut and fill for disturbed areas and asked why they were asking for a waiver of that. Mr. Stokosa said because they were not proposing any, and Mr. Bell said then it shouldn't be very hard to show that at all. Mr. Stokosa said he thought he could demonstrate that.

Mr. Bell referred to Stormwater management. Mr. Artus said he saw the plan relative to the addition and didn't think that small addition would have any adverse impact. He said

he hasn't been to the site and seen the grading that's been done and whether that has any impact. Mr. Brenner proposed the board do a site visit. The board agreed to go Wednesday, June 16th at 6:00 p.m.

Mr. Bell said the board would wait on the stormwater waivers until Mr. Artus sees the extent of grading done.

LANDS OF MARSH SUBDIVISION – Proposed 2-lot subdivision located on Lauer Road containing 5.095 acres (Grid No. 6460-03-173138); consideration of final subdivision approval.

Mr. Marsh was present. Mr. Artus said this project was ready for final approval. Mr. Straub made a motion to grant final subdivision approval, seconded by Mr. Gunn and the motion carried unanimously. FINAL SUBDIVISION APPROVAL

DUTCHESS COUNTY ANIMAL HOSPITAL – Proposed site plan located on Rte. 82 containing 1.70 acres (Grid No. 6561-02-927932) site plan re-approval.

Mr. Brian Stokosa was present. Mr. Straub made a motion to grant re-approval of amended site plan approval, seconded by Mr. Gunn and the motion carried unanimously.

Ms. Valk said the site plan needs to be signed within 60 days and asked Mr. Stokosa if that's what they plan on doing and Mr. Stokosa said yes.

68 TODD HILL ROAD – John Nisi Special Use Permit (stream corridor overlay zone)

Mr. John Nisi and Gary Beck were present. He said he wants to do a garage and showed the board their site survey done by Richard Barger. He said the house has been in the family for 4 generations. Mr. Nisi showed the board some of the updates they were doing with the property. He said the intent is to put a 3-car garage off of the side of the pool and showed the board some elevations. Mr. Nisi said this is the stream corridor overlay zone so he needed a special permit.

Mr. Artus said this is within 200 feet of the centerline and outside the floodplain. Mr. Bell asked if this was ready for a public hearing. Ms. Valk said this is subject to the general special use permit criteria of 240-71 so they have to put a plan in. Ms. Valk told Mr. Nisi all special use permits require a site plan under town code.

Ms. Livigni asked if the board would consider giving them until Friday to get in some plans and if it doesn't happen they won't have the public hearing. Mr. Bell said he didn't know if the site plan could be done in 3 days. Mr. Artus said this is a relatively simple site plan which would be a survey showing the proposed addition, the stream corridor overlay and he asked about grading. Mr. Beck said the property is relatively flat through there. Mr. Bell said he didn't want them to go through the time and expense of setting up the public hearing to find at next month we don't have what they need to hold it.

Mr. Artus said if they submit by Friday, somebody should be able to take a look at it prior to the time that it would have to be advertised. Mr. Artus said there is pretty much cookie cutter things that need to be added to the map.

Mr. Bell asked if it was not unreasonable that somebody can pull that together by the end of the week. Ms. Livigni replied in auto cad, no.

Mr. Nisi said his architect has this in auto cad already. Ms. Livigni asked if it showed the addition on it and Mr. Nisi replied no, but she did it on her overlay which is the same exact auto cad drawing. Ms. Livigni said have Barger put the addition on the survey and show how much you are cutting into the 200 feet. Ms. Olyha asked about the floodplain and Mr. Artus said there is a 100 year floodplain and the approximate location should be identified. Mr. Bell asked who in the town the Nisi's engineer should contact and Ms. Livigni replied her. Mr. Bell said provided you get it on by close of business on Friday then the board will set the public hearing for July 20, 2010.

The board set an escrow for \$200.00 , and Mr. Artus said they also need a short EAF.

REQUEST FOR TIME EXTENSIONS:

ROLLING MEADOWS SUBDIVISION 90-DAY EXTENSION OF RE-APPROVAL OF FINAL (LAST ONE)

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

IMPROTA SUBDIVISION – 90 DAY EXTENSION FROM FINAL APPROVAL (LAST ONE)

Mr. Straub made a motion to grant a 90-day extension, seconded by Ms. Olyha and the motion carried unanimously 90-DAY EXTENSION GRANTED

Mr. Bell said he had a letter from the town board regarding a local law and was asking the planning board for comments back before the public hearing which was a week from June 16th, He said it appears to be establishing a new zoning classification called parkland district. Ms. Valk said the district exists but it had no use or bulk areas in it. The board suggested having it scanned and sent in an e-mail and the Planning Board secretary agreed to do that.

Respectfully submitted

Eileen Mang
Planning Board Secretary