

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday July 21, 2009. Chairman Alan Bell called the meeting to order at 7:30 p.m. Board members Robert Straub, Dennis Rosenfeld, Stacy Olyha, John Gunn, and were present. Tony Brenner was absent. Also present was Maureen Harvey, alternate board member, Wanda Livigni, Administrator of Public Works, Walter Artus from Stormwater Management Consultants

Mr. Straub made a motion to accept the minutes of June 16, 2009, seconded by Ms. Olyha and the motion carried MINUTES ACCEPTED.

PUBLIC HEARINGS:

RIEGER HOMES WETLANDS PERMIT – Proposed Wetlands Permit located on Freedom Plains road (grid No. 6460-01-398951)

Ms. Maureen Harvey recused herself from this application.

Ms. Christine Anello from Groundwater Environmental Services appeared before the board. She said they plan to extend an existing water line which is operated by the Town of LaGrange along Freedom Plains Road. She said the address they are using is 1054 Freedom Plains Road, which is across from the Mobil Station, consisting of 4 houses owned by Rieger Homes Incorporated. The purpose of the waterline installation is to eliminate the need for a point of entry treatment system which treats the potable water for the 4 buildings due to the presence of MTBE in the existing potable well. She said it is a product that you would find in gasoline. The reason for obtaining for obtaining the Wetlands Permit is due to the fact that the property is located just east of freshwater wetland area designated PV36.

Ms. Anello said no work will be performed within the wetland area, however there will be work conducted within the 100 ft. adjacent area. No major modifications or construction will be conducted. In a addition to applying for the Wetlands Permit, GES had applied for a NYSDEC Freshwater Wetland Permit and though a notice was received on May 15, 2009 which she said she attached to the packets she gave the board, the DEC stated that they would not be requiring a wetland permit for this project because the installation of the utilities within the 100 foot adjacent area is from an existing distribution facility to a structure where no major modifications or construction activities in the wetland area are necessary.

Ms. Anello said the DEC did advise GES that although a permit is not required, appropriate erosion and sediment control should be put in place to insure that no pollutants or other materials enter the wetland or any other water body. Ms. Anello said it should be noted that no soil or water waste will be allowed to be discharged to any storm sewer or wetland area during this project. She said silt fences will be utilized and in places trench boxes will be installed if necessary to prevent any erosion of the trench walls. She said they would be trenching to approximately 4-5 feet below the ground to

lay the water line and they will be extending the water line approximately 400 feet along Freedom Plains Road and then installing 4 separate individual lines to the 4 buildings all located on 1 parcel owned by Rieger Homes.

Ms. Anello said GES will take every measure to insure that no soil, water or other materials associated with this project be discharged to the wetland or any other water body in the vicinity of the project.

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. 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 asked about the disturbance that is in the buffer and if it was providing one line to one building. Ms. Anello said correct. She said they will be abandoning the potable well that's also in the 100 foot adjacent area. Mr. Bell said it looked to him that the entire building was in the 100 foot buffer. Ms. Anello said even part of the 2nd building is also within that zone. Mr. Bell asked if there was any way they could get the line to the building without being in the buffer since the entire building is in the buffer. Ms. Anello replied no.

Ms. Olyha asked if a sediment erosion plan was necessary. Ms. Livigni said there was no need for that. Mr. Artus said this was less than an acre.

Ms. Olyha asked if the traffic control poll was going to be a problem and asked if an as-built was necessary to show how they went around it. Ms. Livigni said the application for the actual construction of the water main was being done through regular means which was separate from this application and had no bearing. Ms. Anello said they did have an engineer working on it. Ms. Livigni said it has been submitted to the department and Greg Bolner was reviewing it.

Mr. Straub made a motion to deem the project 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 identified and suitable mitigating measures have been incorporated on the plans and/or in the reports. Mr. Gunn seconded it and the motion carried unanimously. NEGATIVE DECLARATION

Mr. Gunn made a motion to grant a Wetlands Permit, seconded by Mr. Straub and the motion carried unanimously. WETLANDS PERMIT GRANTED

OTHER BUSINESS:

HART/PAGE LOT LINE REALIGNMENT – Proposed lot line realignment located on Freedom Road containing 7.07 acres (Grid No. 6461-01-346758;6461-01-309829); initial presentation.

Mr. Bell announced that in the absence of Tony Brenner, Maureen Harvey would be a voting member.

Mr. Jason Page appeared before the board. He said he was representing his parents Helen & Bill Page and John & Ellen Hart. He said 10 years ago his father sold the property next to him, which he originally bought as a buffer to John Hart. He said Mr. Hart is retiring and moving and Jason said his father thought that Mr. Hart would own it forever. He said his father and Mr. Hart made a deal and his father was going to purchase the 2 acres that buffers his father's property.

Mr. Page said this was for 2 acres of land, leaving the Harts with 5 acres, which is still in accordance with the zoning. Neither parcel is in the AG district and said this was fairly simple.

Ms. Harvey asked for a survey of the old and new lines. Mr. Page said they had a survey done. Mr. Page showed the board the properties and where the new property line would be. Mr. Artus talked about non-jurisdictional relative to the Health Department. He said when you go to 5 acres, it's a non-realty subdivision.

Mr. Artus said there really is no review and approval by the Dutchess County Health Department. He said they just sign off on a note stating it's a non-realty subdivision when a parcel is 5 acres or more.

Ms. Olyha made a motion to waive the requirement for the 5ft contours, seconded by Ms. Harvey and the motion carried unanimously.

Mr. Gunn made a motion to set the public hearing for August 18, ²⁰⁰⁹, seconded by Mr. Straub and the motion carried unanimously. PUBLIC HEARING SET.

The Planning Board set a \$1,000 escrow.

KALBA/MELVIN LOT LINE REALIGNMENT – Proposed lot line realignment located on Gidley Road containing 23.51 acres (Grid No. 6562-02-579538;6562-02-642632); consideration of final approval.

Mr. Shaun Kalba appeared before the board. Mr. Kalba showed the board the map.

Mr. Artus said they were waiting for the town engineer's office to review the metes and bounds and the right-of-way dedications and then the language to be approved by the town attorney's office. Ms. Valk said she already approved the instruments and added the signed documents have to be sent to her so she can record them. Mr. Bolner said the metes and bounds had not yet been submitted to him.

Mr. Artus stated the owners consent signatures was also necessary.

Mr. Gunn made a motion to grant conditional final subdivision approval conditioned on the satisfactory response to all outstanding issues stated above, including payment of all fees. The motion was seconded by Mr. Straub and carried unanimously.
CONDITIONAL FINAL SUBDIVISION APPROVAL.

DUTCHESS COUNTY ANIMAL HOSPITAL - Proposed site plan located on Rte. 82 containing 4.70 acres (Grid No. 6561-02-927932); consideration of site plan approval.

Mr. Brian Stokosa from M. Gillespie & Associates appeared before the board. Mr. Stokosa showed the board existing and proposed diagrams. Mr. Stokosa said they were originally in front of the board a couple of months ago submitting for final approval. Then some of the changes with the project dealt with the architect, a personal friend of the applicant's. He said there were some mis-information given on the overall plan for the building. He said the intent for the applicant was to keep a large portion of the existing building in tact while performing the addition. He said a majority of the building would had to have been torn down and rebuilt and based on the economic times, it doesn't make sense. Mr. Stokosa said in the applicant's current spot has to be out by March of 2010. He said they propose to scale down the addition and allow the applicant to phase it. Phase I being allowing the applicant to install the infrastructure associated with the overall development of the parcel and just doing the renovations to the inside of the existing building.

Mr. Stokosa said then at such time that she has the financing, to go ahead with the smaller addition in the back. He said the infrastructure would already be in place, so she would just have to apply for a building permit. Mr. Bell said what they are phasing is the building itself. Mr. Stokosa said yes and added other than that, it's the same as before.

Mr. Bell said this will be smaller than the one the board originally saw and they would do it in phases. Mr. Stokosa replied yes and there would be less parking, less infrastructure and the septic is smaller so the disturbance is slightly less.

Mr. Stokosa said there were some out buildings that have since been taken down to try and clean up the site. He said the existing building along Rte. 82, they pulled the barn door out and there is an old tractor in there and one of the wheels is actually up an old stone retaining wall, which is actually holding up the building, which is actually holding up a state road. Mr. Bell humorously added that he was sure Mr. Stokosa was going to get to the point soon.

Mr. Stokosa said they propose to take down the 2 story addition to remove the remainder of the retaining wall and perform some kind of a modification to shoulder out the right of way. Mr. Stokosa said they have talked to the state and they have said they are in favor of getting rid of that section of the barn hanging in the road.

Mr. Stokosa said he got a letter recently giving conceptual approval to use the existing entrance. He said originally they were going to have to shift it slightly because of the site distance and the building, but now they can use the existing entrance as it exits.

Mr. Bell said the board has done SEQR and were in a position to consider granting approval. Mr. Bell said since this plan is less intrusive, he didn't think they needed to re-do SEQR. Mr. Bell talked about the phasing. Ms. Valk said as long as there are sufficient notes on the map that they are not constructed yet, so the building inspector realizes it when he goes out there and sees part of the building is not there, she felt there was no reason why that should be a difficulty.

Mr. Gunn asked about the grade at the entrance. He said it was steep. Mr. Stokosa said they were going to take some material out of the pond and fill it. Ms. Olyha asked Mr. Stokosa if they already removed the building, why was it still on the plan. Mr. Stokosa said they will take it off the plan.

Ms. Harvey said according to the comprehensive plan, she thought part of the area was U.S. federally regulated wetlands and if so, did they have different setbacks then DEC?

Mr. Artus said there is no setback. Mr. Bell said federal wetlands don't have buffers. Ms. Harvey said is it ok for the septic to go into the buffer. Mr. Stokosa said they were not going into the buffer. Ms. Harvey asked if the proposed septic expansion area was in the buffer. Mr. Stokosa showed Ms. Harvey the line on the map which reflected the buffer.

Ms. Harvey referred to SMC comment # 8 concerning a decrease in the peak rate of runoff and asked if that was because of the pond. Mr. Artus replied yes, because of the retention.

Mr. Stokosa described the building as red with black shingles and white trim around the windows. He said the applicant is trying to match the paint that is already there. Ms. Olyha said there was supposed to be a note on the plan regarding signs in the parking lot to remind people to look for wildlife under their cars.

Mr. Stokosa said he didn't remember that. Mr. Bell said he remembered. Mr. Artus asked if that was Belrose Plaza. Mr. Stokosa said they didn't deal with the DEC on this. Ms. Olyha said it was this project. Ms. Harvey said there was supposed to be a note on the plans about no overnight boarding. Mr. Artus said the note was there. Mr. Stokosa said there would be overnight hospitalization, just no boarding. Mr. Artus went through some of his comments. Mr. Artus referred to # 1 and the Planning Board's satisfaction regarding the architectural elevations, the board should be satisfied if there will be any proposed signage. Mr. Stokosa said they show the sign up front. Mr. Artus said the sign may have been reviewed by Ken McLaughlin. Ms. Valk said that was her recollection. Mr. Artus said the board should be satisfied with the landscape plan. Mr. Stokosa said it was the same as the last time they were before the board.

Mr. Artus said the board should be satisfied with the proposed materials of the refuse enclosure. Mr. Stokosa said the refuse enclosure was surrounded by landscaping and said they showed a white PVC solid fence. Mr. Bell said that was fine.

Mr. Artus referred to SEQR and said he requested the applicant to revise the EAF to be consistent with the new plan relative to the project description. Mr. Artus said some of the conditions for approval would be the applicant would have to submit to Wanda an acknowledgement of coverage of their SPEDES coverage. He said he already approved the SWPPP and filled out an MS4 SWPPP acceptance form and Wanda has signed it. Mr. Stokosa said he had that. Mr. Artus said Mr. Stokosa needed to send that into DEC to get his notice of intent.

Mr. Artus said in accordance with their Stormwater Management Ordinance he prepared a performance bond for the stormwater management facilities. The applicant will have to go before the Town Board for acceptance. The applicant will also have to post an escrow in the amount of \$2,000 for SWPPP compliance inspections, in accordance with the stormwater fee schedule.

Mr. Sokosa said he put a petition into the Town Board to be on the next available agenda to accept the number that Walter came up with. Mr. Artus said that number would be delivered to the Town Clerk tomorrow. Mr. Bell asked about the lighting plan. Mr. Stokosa said it is the same as before.

Mr. Bolner said his comments included the grading in the parking lot may not exceed 3% unless specifically approved by the Planning Board, up to 5%. He said he looked at it and it is not significant but that do have a small area where it is between 3 and 5% on the parking lot. Mr. Bell said the code specified that if it is more than 3% they need the board's approval.

Mr. Artus said this requires a Special Use Permit.

Ms. Olyha made a motion to grant a Special Use Permit for Dutchess County Animal Hospital, seconded by Mr. Straub and the motion carried unanimously. **SPECIAL USE PERMIT.**

Mr. Gunn made a motion to grant site plan approval conditioned on the satisfactory response to all outstanding issues included in the resolution. The motion was seconded by Mr. Straub and carried unanimously. **SITE PLAN APPROVAL.**

SPINELLI AMENDED SITE PLAN. – Proposed site plan located on Freedom Plains Road – initial presentation.

Mr. Spinelli appeared before the board. Ms. Livigni said there were some zoning violations on the site. Ms. Livigni said the site was located on Rte. 55 diagonally across from the fire house. Mr. Bell asked Ms. Livigni if the intent of this application was to get approval for things that are technically in violation of the current plan. Mr. Spinelli said

he wants to expand the display area, which was approved in 1988 and it is not enough. Mr. Spinelli said he needs to show his equipment. Mr. Spinelli showed the board the original display area. Mr. Bell asked Mr. Spinelli if the equipment would be out only in the day or overnight. Mr. Spinelli replied it depended on the equipment. He said sometimes the equipment gets left there by the customers. Ms. Olyha said she didn't believe the board was looking at the current plan, that there was another plan. Mr. Bell said there may have been a later plan that showed the area differently. Ms. Olyha talked about a fence and a poll building. Mr. Spinelli said there was a fence there and added that the front was not the same because of when the state put the road through, it took 25' away from there. Mr. Gunn asked Mr. Spinelli how many pieces of equipment he wanted to put out there. Mr. Spinelli said 2 or 3.

Mr. Bell said the existing plan shows outdoor displays in one small location. He said Ms. Olyha believes that the board actually went through a review of this some years ago and the result was the fence with all the stuff in the back. Mr. Bell said he doesn't know if they have that plan on file so there is no way to verify if that is true or not. Mr. Bell returned back to the present request which was to put equipment out front where people can see it. Mr. Bell said from Mr. Spinelli's perspective, putting it in a poll building where no one can see it is not solving his problem so his request is that we have an amended site plan that allows him to display these things in the front where people will see it and potentially increase the likelihood of his business. Ms. Olyha said they had this exact same conversation how ever many years ago. Mr. Bell said that was a long time ago and the board should decide what to do about Mr. Spinelli's current request. Ms. Olyha said if it is in violation, they shouldn't be out there. Mr. Bell said the question is whether or not the code specifies that and if it does, whether it allows the board to have some judgment in approving it.

Mr. Bell said the board cannot approve anything it wishes to. The code tells them what they have control over and don't. Mr. Bell said the board was trying to determine what judgment they have on this. Mr. Spinelli said based on what was approved 20 years ago, why should he have a problem now. Mr. Bell said because he was asked for something different from what was approved then. Mr. Spinelli said it was not different, just maybe another spot instead of just one. Mr. Bell said if it wasn't different, he wouldn't be before the board asking to change the site plan. Mr. Bell said it was different.

Mr. Spinelli said he was here because he was in violation according the enforcement officer. He said he wants to correct it. Mr. Bell said he wants to actually change it. Mr. Bell said he couldn't find this in the code. Mr. Gunn said this discussion needed to have some research done.

Mr. Bell said it looked like they would have to go through the minutes to determine if this plan was the latest. He said they also had to do some research in the code if this was something that the board had the authority to approve or not. Mr. Spinelli asked if he could put his equipment out in the morning and put it away at night. Mr. Bell said that was an interesting alternative. He said they still need to check the code.

Mr. Bell asked Ms. Livigni if Mr. Spinelli was cited for a violation and if that was why he was here. Ms. Livigni said the Enforcement Officer did. Mr. Bell asked if the board had the authority to ask the Enforcement Officer to hold off until the board could figure out what they were doing. Mr. Bell said it doesn't make any sense to pursue that if the board is taking time to make a determination. Ms. Valk said she could discuss it with Ken McLaughlin. Ms. Valk said if Mr. Spinelli needs the amended site plan to change what is going on, typically you do not charge that person while the Planning Board is.

REDL'S MONOPOLE SITE PLAN & SPECIAL USE PERMIT – Proposed site plan located on Sedgwick Road containing 11 acres; set public hearing.

Mr. Mark Redl appeared before the board. Mr. Redl said they have Kelly Libolt from Fuss & O'Neill working with him.

Mr. Bell said the applicant wants to discuss some of the documentation requirements that are outlined in the code and whether the board wants all of them. Mr. Redl agreed.

Mr. Redl said because they have a tower and he referred to break points, which means it collapses on itself, the new code says they are supposed to have to 3 times the height of the tower away from any property line and added which they can't do. Ms. Valk said they had a variance from the 1980's. Ms. Valk said she believed Ron Blass had done an opinion letter 2 or 3 years ago and she could look into that fairly quickly.

Mr. Bell said he believed this was the kind of thing that would not be waived because the legal agreement specified that they could build a tower, of a specific height, but it didn't say they could place it anywhere on the property they chose so it seemed to him that the setback requirement, like the distance requirements would be applicable. Ms. Valk said she seemed to remember that the setback may have been addressed also. Mr. Redl said it was. Mr. Bell said they this would not have been true in that legal finding 30 years ago because those towers didn't exist. Mr. Redl said the last 2 workshops they were at, it had been addressed and the board had agreed with them on the locations.

Ms. Valk said she would need to research the file. Mr. Redl said the board decided as long as the tower fell on their own property, the board wouldn't have a problem with it.

Mr. Bell said that it is very likely that in a previous meeting he may have said he had no problem with it as long as it collapses within the property line. The only hedging he was having was whether his opinion of not having a problem with that is the same as being able to ignore what the code says, because it didn't say anything about it so the board would need a legal opinion.

Mr. Bell asked Mr. Redl if they had carriers lined up. Mr. Redl said they had 2 cellular and 2 municipalities which include the LaGrange Highway Department. He said the cellular carriers were Verizon and AT & T. Mr. Redl said they were hoping Nextel would be one too. The discussion of T-Mobile came up. Ms Valk said the status of that was it was still with the judge. Mr. Bell said it was not settled and added that they did not

have a signed arrangement with T-Mobile. Mr. Redl said they did not. Mr. Bell said if they did, he was going to ask the attorney whether there was some legal complication with them part of this.

Ms. Livigni asked Ms. Valk how quickly the decision regarding the variance could be rendered. Ms. Valk replied mid next week. She said there are a lot of requirements with the frequency issues which wouldn't be covered by the variance they would need. Mr. Redl said that was the carrier's responsibility. Mr. Artus said the two biggest issues are the radio frequency analysis and visual analysis. Mr. Artus said when they get to the public hearing they are going to want that information.

Mr. Redl said they are just putting the tower up now. Mr. Bell said he believed the code required them to present a full build-out plan. He said the board is not going to approve an application for a communication tower with no proposed carriers on it. Ms. Valk said if they have carriers ready to go on now, they have to present that. Mr. Bell said the plan should include the 2 carriers they have an agreement with and others that they are negotiating with and hope to have on there. He said it should be a full appreciation of how much they are going to have on there so they don't get into complications.

Ms. Livigni said the applicant is looking to set the public hearing with the full understanding that all that documentation has to be provided and she did discuss it with Fuss & O'Neill, their professional.

Mr. Bell said it would be good for them to know now what documentation we need before the public hearing. Mr. Artus said Fuss & O'Neill have worked wireless and they should know. Mr. Bell said the map needs to have some additions. Mr. Redl discussed the visual analysis and said that was done when the original variance was done. Mr. Redl said they went back to the ZBA a year or so ago to make sure all of the variances were still good today because the code changed. Ms. Valk said she believed they were in front of the Planning Board last year, not the ZBA. Mr. Bell said the variance allows them to build the tower a certain height so did the board need to see renderings and visuals when the height is already determined by that variance.

Mr. Redl asked if the height had to be the 199' they were proposing and the reason they chose that height was because they want to build a tower the first time for the future and that's why they would go with a lattice tower and the height. He said there are 4 major carriers out there now and there may be a couple more trying to break in and he didn't want to have to come back because they only built it at 150' and now they need to add an extension. Mr. Bell asked what the variance allowed. Mr. Redl replied 200'.

Mr. Bell asked if they were building the tower no taller than the variance they already have allows, did the board think they still needed to see visuals. Ms. Olyha said she would like to see what kind of tower it is and how it fits in. Mr. Bell asked about putting a balloon up and Ms. Olyha said that wasn't needed. The board agreed a picture of what the tower would look like was sufficient because the height is already approved.

Mr. Bell said the board needs a plan that meets the requirements for a public hearing, frequency analysis. Mr. Artus said they would need some documentation that it falls under the FCC guidelines. Mr. Artus said he thought they should have it for the public hearing because some of the public would want to know.

Mr. Artus said eventually the board would want to see a structural analysis. Mr. Gunn made a motion to set the public hearing for August 18, 2009, seconded by Mr. Straub and the motion carried unanimously. Ms. Olyha said if they don't have all the maps in, it will get moved.

Mr. Artus said Kelly Libolt should make a submission to Wanda. Mr. Bell said he wanted to make sure that all of the materials and submission went to Eileen. The board decided on a deadline for the submission and what agencies needed to be circulated to. The board discussed the dates for the submission and the 30-day time frame for agencies to comment. Mr. Bell said it didn't make any sense to him to have the public hearing in August just for the sake of having it when the board knows that they cannot close it until September anyway.

The board decided to change the date of the public hearing to September 15, 2009 and a motion was made by John Gunn and seconded by Mr. Straub. PUBLIC HEARING SET FOR SEPTEMBER 15, 2009

Mr. Bell advised Ms. Livigni and Mr. Artus to make sure the applicant knows what the board needs and submit it to the office by the 7th of August.

AMEDEO'S AMENDED SITE PLAN – DISCUSSION

Mr. Pat Amedeo showed the board the plan. Mr. Amedeo said Mr. Barger, his engineer was not present. He said Mr. Barger indicated that he wanted the board to review it before he sent it to the DEC. He said Mr. Barger felt there was a possibility that this could work with them. Ms. Livigni said Mr. Barger indicated that he was going to contact DEC and Mr. Amedeo said he spoke to Mr. Barger that afternoon and he felt there was no need to contact the DEC until the board gave an approval.

Ms. Harvey asked if he was amending his site plan to add parking. Mr. Bell replied yes. Ms. Livigni explained relocating the existing pond. Mr. Amedeo showed the board what was already approved by the town, a two-story building with a 2nd floor. Ms. Livigni said they had approval to go within 50-feet of the buffer. Ms. Harvey asked about the gravel and if it was approved. Ms. Livigni replied no. Mr. Bell said the map indicated they would remove it, top soil, seed and mulch it. Ms. Olyha asked about a fence or berm the DEC wanted also, between the parking lot and the wetlands.

Ms. Livigni said the existing site, other than the gravel placed is in conformance with the site plan approved by the board. Ms. Olyha asked if that fence was a part of the plan. Mr. Amedeo said a portion of the area was already there and some was added from the gravel and he said he asked the Highway Department if they could put the rest of the

gravel there and that's were his employees park at time. He said he was approved by the town for a 2-story building with the current parking. Mr. Amedeo said he hired an engineer to try and work this issue out. He said it probably wouldn't happen this year but he was will to attempt to try and do something to make it work with the town.

Mr. Bell asked Mr. Amedeo if he was asking the board whether they were receptive to the idea before he sent it to the DEC. Mr. Amedeo replied yes. Mr. Bell said the board would care what the DEC has to say in response but they board doesn't want to put him in the position to be waiting for them and the DEC is waiting for the board.

Ms. Livigni talked about a discussion in the consultants meeting and added she felt it would be very hard to get DEC approval on this. She said at that meeting, Walter Artus, Greg Bolner, Mike Kelly and herself attended as well as John Gunn, they said this is going to be tough to get approved but they talked about the Highway Superintendent taking over the responsibility of maintaining an extended shoulder if the applicant would turn over to the town an additional 10 from the edge of the road, construct a town shoulder 8' in width to town standards along the portion of the property line and they estimated that would have about 9 spaces added. She said it would be like parallel parking and the town would maintain it. The other thing they discussed doing was to extend this along the area she referred to on the map, they figured they could get another 6 or 7 spaces. Mr. Bolner said he thought 5. She said they thought that might be an easier sell to DEC. Ms. Olyha asked if that section would be parallel or pull in. Ms. Livigni replied pull-in. The board felt they could get more than 5 spaces in there. Ms. Livigni referred to the pond. Ms. Olyha said they could pipe the water under the parking area.

Ms. Olyha asked about a sidewalk along that section. Mr. Amedeo said they did have an installed sidewalk in the front which wasn't required during the construction. Mr. Bell said he got a note from the town asking why the board didn't require a sidewalk there. Mr. Bell said he didn't recall being told they had to put one in there. Ms. Olyha said sidewalks are required in town center.

Mr. Bell said it was his recollection that the board determined there was no reason to put one there because no one would have any place to walk. Ms. Livigni said however, VSC.R shows a sidewalk coming in. Mr. Bell said only if the town asked them to build it. Ms. Livigni said if they are trying to be consistent it would have to continue on the side of the shoulder. Mr. Bell said the problem was the wetlands.

Ms. Harvey asked if they considered using shared parking with Cinnamon Tree. Mr. Amedeo said parking hasn't been an issue since the opening. He said even if they have double the parking spaces people still pick up pizza. If he's doing 100 pies a night, there's 75-80 people who are going to pick them up and there is going to be congested parking. He said to his knowledge currently, he didn't think parking was an issue that is environmental or hazardous other than having cars parked on the road.

He said the biggest problem since he's been there is people cutting through 55 to beat the light and making a left on Freedom doing 50 miles per hour and the other way as well.

He said that is the big issue with safety. Mr. Bell asked if complaints were being received about cars being parked there. Ms. Livigni said the town is receiving complaints from the residents about parking in general, on the residential side of the road. She said that's been a consistent theme. Mr. Bell said Mr. Amedeo said it was more of a problem when they initially opened than it is now. Ms. Livigni said she believed the volume of vehicles has decreased since the grand opening. Mr. Amedeo said it was not a problem at this point. Ms. Livigni said it is because the problem is he is using fill that it's in violation of the site plan. Mr. Amedeo said there is some fill there and a portion of it was already there. Ms. Livigni said because Mr. Amedeo has been willing to work with the town, they haven't pursued this but there is a problem with removing that gravel. Mr. Amedeo said he felt it helps the town as far as parking. The site was approved for the parking by the town, he didn't design it and he is making it better for the town.

Mr. Bell said his recollection is when the board approved the parking there was other parking the board said to cover it with grass. Ms. Olyha said she didn't recall that. Ms. Olyha said she recalled something about vegetation with the DEC that you put in along to catch stuff before it got into the wetlands. Mr. Bell said that was on the plan.

Ms. Olyha said she didn't see a problem because there was going to be parallel parking in town center anyway. Mr. Bell asked for the board's reaction to the counter proposal of putting parking along the road as well as another row of parking in the area they discussed. Ms. Olyha said she would rather see the latter and Mr. Bell said it looked like it would cost a lot less money. Mr. Amedeo said he was nervous because they were in the buffer zone. Mr. Bell said that was far less intrusive than the 2 other ones. Mr. Amedeo said the engineer's approach was to try and go for the maximum and see what the DEC would allow.

Ms. Livigni said it was imperative that Mr. Barger be told to proceed with the DEC immediately, but Mr. Bell said they needed to decide which plan to send them.

Mr. Artus said Mr. Amedeo can request a pre-application meeting with the DEC to discuss options. Mr. Amedeo said someone in Mr. Barger's office worked on this and laid it out this way.

Mr. Bell asked the board assuming that the DEC would approve either of the 2 alternatives discussed, did the board have a preference. Ms. Harvey said she would rather it be less intrusive and not have that additional parking lot. Ms. Olyha preferred the parallel parking, and perhaps showing a sidewalk to be built when asked.

Ms. Livigni pointed out it shows a one-way and Mike Kelly was not in favor of that. She said the recommendation she would make to the Planning Board is that you may want to consider putting no parking on the residential side of Lauer Rd. The board discussed the issue of the one way, but Ms. Livigni said Mr. Kelly was not in favor of it.

Mr. Bell said the consensus of the Planning Board is they like the idea of building along here, which he pointed to rather than here, which he also pointed to. Ms. Livigni said if

that's the way the board wants to go would it be ok to have a consultants meeting with Mr. Amedeo's engineer. Mr. Bell said yes because his engineer is going to need to understand the things the board wants shown on the plan. Mr. Amedeo said financially this is not going to happen tomorrow or this year. He said this is his IRA, his ROTH and life insurance all in this building and he was trying to make a living. He said he would like to make the town happy. Mr. Bell suggested banking spaces and have the plan drawn up to show the parking being built, and show parking in the area he referred to with a note saying he wasn't going to build it unless at some point it is determined that he needs it.

Ms. Olyha said it should be up to the applicant to decide if they need it, it should be the board. Ms. Harvey asked would they rather see the parking on their property rather than the town maintaining it, if we have a choice which one gets done first. Ms. Livigni said if you follow the town center principle on street parking is consistent. Ms. Harvey said she understood that but asked about the "as needed" and leaving it in the applicant's hands. She asked if there was a preference the board had. She said should the board dictate that the applicant build on his own property first and then the town right of way be the 2nd option. Mr. Bell said they are not going to get the same # of spaces. Mr. Amedeo said right now there is not a parking issue. Ms. Livigni said there is an issue because it was in violation of the site plan.

Mr. Bell said there is an issue because if the board told him to re-seed the area and not park cars there, there will be an issue. The point is there is an issue because the current parking doesn't adhere to the existing approved plan, so that was a problem, so we need a new plan which shows how the parking is going to take place so that it is legal. One of these alternatives needs to be done because there is a problem currently because what's going on isn't approved in the plan.

Mr. Amedeo said everybody is talking about fill there, he said it is gravel that came from the septic that Mike Kelly knew about. He said there are 6 or 7 employees that park there. He said tractor trailers get off the road there during the day to unload. He said this is a benefit to the town and said he could pull it out tomorrow and then there will be more issues. He said he understood the rules. Mr. Bell said he didn't think they would get enough spaces on site. Ms. Harvey asked again if shared parking and/or employee parking at Cinnamon Tree was an option. Ms. Livigni said it was not an option.

Mr. Amedeo said they have a problem with his cars parking in the evening and on the weekends in their parking lot and it is their property and they have that right but it doesn't bother him. He said if he wasn't open one day and they needed extra parking, they could use his parking lot. It would be nice and neighborly but that's his right.

Mr. Bell said his inclination was to go "this way" and Ms. Olyha said hers was to go that way and bank the others. Mr. Rosenfeld agreed, Mr. Gunn agreed. Mr. Bell said the next step was to have a meeting with the consultants on how to update the plan and when that is submitted, they could have a public hearing.

Ms. Harvey said if people are pulling into Lauer off of Freedom Road and they want to parallel park, they are going to have to make a 3-point turn or turn around in somebody's driveway and if it's December at 5:00 p.m., it's dark and if it would be a concern about headlights Mr. Bell said with the current environment, most of those spots will be taken up by employees. Mr. Amedeo said if this is going to get expensive for him, he would rip the stones out and throw some grass there. Mr. Harvey asked Mr. Amedeo which alternative would be cheaper to do. Ms. Livigni said she didn't think it was a fair question.

Mr. Amedeo said he would pull it out, no cost to him and let it be. Ms. Livigni said in fairness to the residents in the area that wouldn't be a bad thing to do at this point until parking is resolved. Mr. Amedeo said he cannot control where people park. Mr. Amedeo said he cannot police the parking and Ms. Livigni said no one was asking him to, just to be considerate of the site. Mr. Amedeo said this parking should have been done by the beginning by his engineer and the town before they approved this site. Ms. Harvey asked if they re-do the site, should they take into consideration delivery trucks. She said it looks like the usable land is being maximized as it is.

Mr. Amedeo said this is a difficult site. He said if he had deep pockets that would be different, but this was designed 3 years ago and the economy was a little different. He repeated that he still did not believe parking was an issue. He said the building was attractive and added to the community and it was a benefit. Ms. Harvey said if got rid of the parking on Lauer the residents would be happy and Mr. Amedeo said if that's what you want, he will do it but then they will see trucks parking on the road, causing a safety issue. Ms. Harvey said to keep in mind redoing the parking for delivery trucks.

This is the way the town wanted it and it was approved. Ms. Valk said the town doesn't get involved with the number of customers and service level, the number of spaces under the town code, depending on what business is going to be generated, that's where the applicant's side of the table is to see if they are going to need additional parking. She said she didn't think anything could be put on the town. Mr. Amedeo said he never indicated that at all.

Mr. Bell asked for an escrow amount of \$500.00. Ms. Livigni said as per the current approved site plan he cannot rent the 2nd floor at this time. Mr. Amedeo said according to the approved site plan, the 2nd floor could be rented based on the water usage not on the parking. The town approved a 2 story building for him to build so he cannot rent the 2nd floor but if you look at the drawings, it's based on water flow not parking. Mr. Valk said she believed they were referencing the note added by the Department of Health. Mr. Amedeo said he had a letter from the Supervisor from the Dutchess County Board of Health, John Glass.

Ms. Livigni read the following "the building shall connect to municipal sewer when it becomes available. Until the connection occurs the 2nd floor use shall not be occupied". Mr. Amedeo said based on water usage, not parking. Ms. Livigni said she wasn't talking about parking. Mr. Amedeo showed Mr. Bell the letter. Mr. Amedeo referred to the

remaining note which said 445 gallons a day is what his septic is designed for and according to Environmental Consultants and the BOH he has a daily usage of 200 gallons of water. The Board of Health has no problem with him renting the 2nd floor as general office. He said the letter was faxed to him by the Supervisor of the Board of Health.

Mr. Amedeo said yes, that was correct, that he needed to tie into sewer but connecting to sewer represents water usage and flow and they are under that by almost 240 gallons. Ms. Livigni said they need to make the request to change that in their amended site plan because right now that's the process he has to go through.

Ms. Valk said each note is considered independently so the note says that he cannot use the 2nd floor until connected to municipal sewer, so she told Mr. Amedeo he needed to have that amended. Mr. Bell said they can change this when the board amends the site plan based on the letter and it can be done at the same time. Mr. Amedeo said if he decides to make the changes to the site plan. Ms. Livigni said it would be more affordable to do it in one amended site plan, even if he didn't intend to do it now.

Mr. Amedeo said he was talking simple office use to help him pay the bills and the funds could help him resolve the parking. Ms. Livigni asked if this was approved residential on the 2nd floor and Mr. Bell said yes. Ms. Livigni said Mr. Amedeo has to make a submission for the amended site plan which encompasses the changes to the 2nd story and the changes to the water. Mr. Bell said there are also a couple of notes that say they anticipate that the restaurant is going to be 24 seats and he said he thought it was larger than that and that should be updated also.

Ms. Valk said these notes, until they are amended, technically it is a violation of the site plan. Anything that is different from what is on the plan has to be amended.

12 Walker Road needed to have a Negative Declaration.

Mr. Rosenfeld made a motion to declare a Negative Declaration pursuant to SEQR, seconded by Mr. Gunn and the motion carried unanimously. **NEGATIVE DECLARATION.**

Mr. Straub made a motion to adjourn the meeting at 9:40 P.M., seconded by Ms. Olyha and the motion carried unanimously. **MEETING ADJOURNED.**

Respectfully submitted,

Eileen Mang
Planning Board Secretary

