

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, October 5, 2009 at LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Tracy Johnson called the meeting to order. Board members Paul Bisceglia, Nancy Swanson, Joe Zeidan, Aaron McPeck and alternate Marc Komorsky were present.

Mr. Johnson made a motion to accept the minutes of September 14, 2009 as submitted. Mr. McPeck seconded and the motion carried unanimously. MINUTES ACCEPTED.

### **OLD BUSINESS**

09-09-02 USE VARIANCE: ADAM WESNER, 22 FELLER ROAD,  
POUGHKEEPSIE, NEW YORK. Grid No. 6360-01-167575

Seeking a use variance to have a 2-family residence in an R-40/60/80 zoning district in violation of Chapter 240-27 Schedule of Permitted Uses

Mr. Johnson said that the board had received a letter from the applicant via his attorney requesting that the board adjourn the application to the November meeting and he made a motion to that effect. Mr. McPeck seconded and the motion carried unanimously.

APPLICATION ADJOURNED TO NOVEMBER 2 2009

### **NEW BUSINESS**

10-09-01 AREA VARIANCE: RICHARD MILEA, 137 CRAMER ROAD,  
POUGHKEEPSIE, NEW YORK Grid No. 6461-03-280166

Seeking relief from Chapter 240-28 Schedule B in order to carry out a lot line realignment that will have a final lot size of 1.54 acres where a minimum of 1.84 acres is required in an R-80 zoning district

10-09-02 AREA VARIANCE: FROST PARK LLC, LOT #25 LINCOLN RIDGE  
SUBDIVISION Grid No. 6461-03-269188

Seeking relief from Chapter 240-28 Schedule B in order to carry out a lot line realignment that will have a final lot size of 1.54 acres where a minimum of 1.84 acres is required in an R-80 zoning district.

Mr. Johnson stated that the board had received two requests for area variances, both related to a lot line realignment where an existing house, which is nonconforming, would gain a small piece of property and an existing building lot which is conforming would lose a little property, making it slightly nonconforming. Mr. Johnson suggested combining the discussion for both of the applications, and asked for the representatives for the applications to come forward.

Ken Stenger, Esq. was present to represent both applications and Richard Milea was also present. Mr. Zeidan led the swearing in of the applicants.

Mr. Stenger explained that the Lincoln Ridge Subdivision was approved about 6 or 7 years ago. During the course of that subdivision process his client, the developer struck up a conversation with Mr. Milea who was an immediate neighbor to the project. Mr. Milea agreed to allow a portion of his property to be used for a building trailer when the subdivision was being developed. In exchange for this certain conveyances were supposed to be made from the adjoining lot to Mr. Milea. Mr. Stenger said he had forgotten exactly but in the final approval there had to be a change in the lot line and it did occur for one of the conveyances. Several years later he received a phone call from Mr. Milea asking if they conveyances had been made. It was discovered that the second conveyance had not been made. Mr. Stenger said they wanted to honor that obligation to Mr. Milea. Since the subdivision has been developed, the zoning code has changed and the area of the minimum lot size has increased, resulting in the need for variances. Mr. Stenger explained that this conveyance will take a little bit from one lot and give to the other so they will both be equal. The conveyance to Mr. Milea will afford him the ownership to assure him privacy. It will not change the buildable space of the existing lot, it is just something that was overlooked in the post planning process and they are trying to rectify it now. The lot from which the piece will come remains a lot that is susceptible to a building footprint. Mr. Stenger thought that the piece of property being conveyed to Mr. Milea is covered by a drainage easement but it was important for Mr. Milea to feel that he owned this additional piece for his own privacy. It will not change the neighborhood at all. There is no environmental detrimental effect and it does not allow for an additional house to be built.

Mr. Johnson said he had visited the site that afternoon. He said it appeared there was a fairly substantial drainage basin that is covering most of the approximately .4 acres that would be conveyed. He understood from the application that there would be no change to the easement for that drainage basin. Mr. Stenger said that easement was made to the town and the change to the underlying fee will not change its use or change or alter in any manner whatsoever the ability to the town to exercise its right. Mr. Milea understood he would be taking title subject to that easement. Mr. Johnson said, since there is an easement on this drainage area there would be no possibility of any building there so conveying the land from one person to another does not influence the underlying character at all. Mr. Stenger agreed and added that you could not even put a deck over it.

Ms. Swanson asked who was responsible for keeping the drainage retention pond maintained. Mr. Stenger said when that subdivision was developed those easements were conveyed to the town so the town is ultimately responsible for the maintenance of all the drainage improvements in that subdivision. Mr. Milea would have no obligation and the conveyance will be subject to the town's rights on that easement.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application.

Steven Giulliano said he was a friend of Mr. Milea's. Mr. Zeidan conducted the swearing in of Mr. Giulliano.

Mr. Giulliano said he is in the title insurance business. He reviewed Mr. Milea's documents and said there was a problem with the acreage when it was brought before the Planning Board. He continued that there is a portion of Mr. Milea's property that is being conveyed to the adjacent property. He did not believe there was an original deal with Mr. Milea. Mr. Milea indicated on the map where there was a piece taken off and a piece added on. Mr. Giulliano said his concern was that he did not think that a small sliver indicated was part of the initial offering.

Mr. Stenger said if that is a problem the board could adjourn the application. Ms. Swanson said wouldn't that mess up the surveys, etc. Mr. Stenger said when he discovered that they had overlooked this they retained Larry Paggi's office to handle the matter. Mr. Stenger said he did not know why that miniscule change is there but he did recall hearing from Mr. Paggi that it was a small jog to make sure the lots were equal in size. If the variance is granted they will go back to the Planning Board and they will grant the subdivision lot line realignment and the map will subsequently be filed and it will show the new boundaries.

Ms. Swanson said her concern is that this land was in the development so that an extra house could be built and then conveyed to Mr. Milea after all the approvals went in. Mr. Stenger said that was not accurate. The conveyance to Mr. Milea was part of the original subdivision approval by the town. So it was not the case that they came in after the fact and asked for land to be taken from that lot. That lot with 1.54 acres would have conformed with zoning as it existed at that time. He said by looking at the map it might be thought that occurred but it did not.

Ms. Swanson said she assumed then that they had never owned the piece of land before. Mr. Milea said it was promised to him when he bought the other piece. He received a letter stating that if they left the sales trailer there for a year he would receive the property. It was signed off and then some time elapsed and the zoning changed. Mr. Stenger identified the triangle piece and said that was the piece that was cut off and conveyed to Mr. Milea as part of the original approval.

There being no further comments from the audience, Mr. Johnson made a motion to close the public hearing. Mr. Zeidan seconded and the motion carried unanimously. PUBLIC HEARINGS CLOSED

Ms. Swanson asked if any comments had been received from the Planning Board. The secretary said no comments had been received.

Mr. Johnson said regarding the application for the Milea Lot Line Realignment, it is a 1.16 acre parcel. The lot line realignment will increase the size of the lot to approximately 1.54 acres which, in the current zoning will still be nonconforming, given the lack of septic service but will be considerably more conforming than it is currently. Concerning the character of the neighborhood and detriment to nearby properties, the neighborhood will not change in its character. The land being conveyed is largely covered by a drainage easement so no building or construction is possible on the land.

Whether it is owned by the neighboring plot or by Mr. Milea will not change its use or any visible aspect to nearby properties. Doing the lot line realignment is a benefit to the applicant because his land will be increased and he can control the planting to the extent that it is not restricted by the easement and the general view of the area and he will have the benefit of knowing it is his land as opposed to somebody else's land. The variance is a diminishing of a nonconformity that was brought about by a rezoning of the area and is large but not substantial. There is no impact on the physical or environmental conditions given the easement. The difficulty is not self created. In the original decision by the owners to do the lot line realignment, it would have been within the zoning code at the time. The zoning has changed since they were able to proceed with the legal separation of the plot.

Given these findings, Mr. Johnson continued, the advantage for the applicant outweighs any negative aspects which are minimal, if any, for the town and the surrounding people.

For these reasons, Mr. Johnson made a motion to grant Mr. Milea relief from Chapter 240-28 Schedule B in order to carry out a lot line realignment where the final lot size will be 1.5 acres, somewhat less than the minimum required of 1.84 acres in an R-80 zone. Mr. Zeidan seconded and the motion carried unanimously. AREA VARIANCE GRANTED

Mr. Johnson then continued that the findings for Mr. Milea are applicable for Frost Park LLC Lot #25 of the Lincoln Ridge Subdivision. The lot currently meets zoning, however the area to be conveyed is not developable so whoever owns it, whether it be the neighbor or is part of the lot is irrelevant in terms of the overall impact on the town or any environmental considerations. There is a benefit both to Mr. Milea and to Frost Park because they have made an agreement prior to the development of the subdivision and this will allow them to fulfill the agreement which they both wish to do, maintaining good faith. It is reasonable for the town to make a variance in this case, allowing a good faith promise to go forward given that there is no adverse environmental, aesthetic or other impacts that can be identified right away and that the building lot which will be left, although a little bit smaller than would be required currently, would have met the zoning at the time and can meet all the other area and setback requirements, aside from the lot size.

Mr. Johnson made a motion, based on these findings to grant Frost Park LLC Lot #25 of the Lincoln Ridge Subdivision relief from Schedule 240-28 Schedule B in order to carry out a lot line realignment that will have a final lot size of 1.54 acres. Mr. McPeck seconded and the motion carried unanimously. AREA VARIANCE GRANTED

10-09-03 AREA VARIANCE: ANTHONY UCCI, 38 COCHRAN HILL ROAD,  
POUGHKEEPSIE, NEW YORK Grid No. 6260-04-827291

Seeking relief from Chapter 240-28 Schedule B maximum lot coverage as percent of lot area (buildings, structures, outdoor deposit, paving) in order to construct a 28' x 36' barn that will cause his property to have 30% coverage where a maximum of 25% is permitted.

Anthony Ucci was sworn in by Mr. Zeidan.

Mr. Ucci said it was confusing about how much percentage of coverage he was required to have. Mr. Johnson said in the R-40/60/80 zoning it is dependent upon whether you have septic and well or if you have town water and sewer, in other words what services are available. If you have no municipal water or sewer your lot size is considered to be 80,000 sq.ft. If you have water, the lot size can be 60,000 sq.ft. and if you have both water and sewer the lot size can go down to 40,000 sq.ft. Mr. Ucci said he has town water so his lot size is based on the 60,000 sq.ft. zoning. Because he has .69 acres, he is pre-existing, nonconforming.

Mr. Ucci said he has four antique cars that he was storing at another location but he has had to remove the cars. Currently, he has two cars underneath the house and two outside in the yard. His intention is build a garage in the upper left corner for storage and restoration of the cars. Most of the restoration work is done off site. That corner has a hedgerow on three sides. His neighbors will not be able to see it.

Ms. Swanson asked where the septic system is located. Mr. Ucci replied that it is in the front of the house, on the Cochran Hill Road side. The water is also in the front, alongside the driveway. Mr. McPeck asked if he was planning on putting in water and septic for the barn. Mr. Ucci said no, but possibly he will add electric in the future. There will probably be a gravel drive leading to the barn. Mr. Zeidan asked if he has a two-car garage under the house now. Mr. Ucci said yes, he stores his cars in there now.

Mr. Ucci said the photograph he provided of the barn is similar to what he plans. It is a prefab barn provided by Bayhorse Gazebos in Rhinebeck. Mr. Johnson said the picture indicates there is a second floor and Mr. Ucci said he would use that for storage of automobilia, which is parts for restoring the cars.

Mr. Johnson said as he understood it, he would not be restoring the cars on site. Mr. Ucci said that was right, most of the work is done offsite. Most of the stuff he has was stored offsite and since he lost the storage he had to bring it home.

Mr. Zeidan asked why he couldn't store the parts where the restoration is done. Mr. Ucci said it is usually on a cash flow basis and he will only hold it while he is doing the work. Mr. Zeidan said he thought Mr. Ucci would be doing the work. Mr. Ucci said he would do some of the work, sometimes the other person would do the work, but if he is using the shop he is paying him for a spot.

Mr. Johnson asked Mr. Ucci to describe some of the other areas where he currently has concrete or hardscape, etc. Mr. Ucci said most of it is wood deck. Behind the house is deck. All of the walkways are pressure treated. The driveway up to the stairs is blacktop. All around the pool area is pressure treated wood deck. There is no concrete or blacktop beyond the rear stairway. The 7,400 sq.ft. is the total surface area – house, the deck, the sidewalks, the driveway.

Ms. Swanson asked how much of the walkways and decks did he add. Mr. Ucci said he added everything. He has lived at this residence for 22 years, and he has completely refurbished the property, inside and out. Ms. Swanson said the work he has done is very attractive. Mr. Ucci said the pool was existing but there was no landscaping or walkways when he purchased the house in 1988. He has since put on an addition, and a deck.

Mr. Zeidan asked if the building inspector was out there. Mr. Ucci said, not recently, to his knowledge. Ms. Swanson assumed then that these measurements had not been checked by the town. Mr. Ucci said that was correct but the numbers are accurate.

Ms. Swanson asked if the concrete apron was there when he bought the house. He said no, there was nothing but the house with a dirt driveway and two mounds of dirt to get into the back and front of the house. Everything that has been done there has been done at his expense to make it functional and an enhancement to the neighborhood.

Mr. Johnson asked Mr. Ucci to describe the walkways around the pool. Mr. Ucci said they are 6' x 6' railroad ties with 5 quarter x 6 pressure treated 40 year planking on top. They were built like a standard deck.

Mr. Zeidan asked whether the railroad tie wall was coming down. Mr. Ucci said it would stay. It is a retaining wall that was built when the pool went in and the dirt was pushed to one side. It is roughly about 25 feet there, maybe a little more.

Mr. Johnson asked for interpretation of the numbers. Mr. Ucci explained how he came up with the numbers. Mr. Johnson asked him to describe the deck. Mr. Ucci said it is similar to the walkways. It is 17' x 32' and 5 quarter by 6 plank decking, and it is open. Ms. Swanson asked what is beneath the deck. Mr. Ucci said soil. Soil is also under the walkways with gravel on top of the soil. He put gravel under all the areas that are being covered by the walkway.

Mr. Johnson questioned whether the deck would count as an impermeable surface and Ms. Swanson suggested that the question should be posed to the Building Inspector.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application. There were no comments.

Mr. Johnson said he would not be averse to having the building inspector go out to the property to confirm what the impervious coverage actually is and to answer some of the questions that have been raised by the board. Mr. Johnson said there is an issue with exceeding the percent coverage but it was not clear to him that in fact it is going to be exceeded and if it is something that the board does not need to consider then he would prefer not to consider it. There has been some discussion as to what impervious means and they might get an opinion from the building inspector on that. If that is acceptable to the board he would like to adjourn the public hearing and consider the application at the next meeting. Ms. Swanson said she was in agreement with that. She explained to Mr.

Ucci that the question was whether the surface is pervious or impervious and has to do with water run off and stormwater, etc.

Mr. Johnson made a motion to adjourn the Ucci application to the November meeting and get some clarification about impervious structures and see whether the building inspector could make a visit to the site and form some opinion as to what is permeable and what is impermeable. Mr. McPeck seconded and the motion carried unanimously. PUBLIC HEARING ADJOURNED.

There being no other business before the board, Mr. Johnson made a motion to adjourn the meeting at 8:15 p.m. Ms. Swanson seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley  
Zoning Board of Appeals Secretary