

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, December 6, 2010 at LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Gary Polhemus called the meeting to order. Board members Nancy Swanson, Paul Bisceglia, and alternate Mark Christenson were present. Board members Aaron McPeck and Marc Komorsky were absent

Rebecca Valk, Esq. of the firm of Van DeWater & Van DeWater was also present.

Ms. Swanson made a motion to accept the minutes of November 1, 2010 as submitted. Mr. Polhemus seconded and the motion carried unanimously. MINUTES ACCEPTED.

### **OLD BUSINESS**

06-10-01 AREA VARIANCE: ORANGE COUNTY – POUGHKEEPSIE LIMITED PARTNERSHIP dba VERIZON WIRELESS, ROSSWAY ROAD, PLEASANT VALLEY, NEW YORK (OWNER: MARIA IOZZO) Grid No. 6562-03-370380 Seeking relief from Chapter 240-28 Schedule B, Chapter 240-49 G.(2), (5) in order to locate a wireless monopole with a proposed height of 136', and a setback of 231' from side yard and 341' from rear (tower) and 300' (accessory structure)

Mr. Polhemus announced that this application is still adjourned. Ms. Valk said a balloon test is scheduled for Saturday, December 11<sup>th</sup>, 2010 with a rain/inclement weather date of Monday, December 13<sup>th</sup>.

09-10-01 JOHN BARGER AREA VARIANCE, POND GUT ROAD, PLEASANT VALLEY, NEW YORK Grid No. 6562-02-819904 Seeking relief from Chapter 240-26 E. in order to carry out a 3-lot subdivision in which all three lots would be encumbered by wetlands and/or steep slopes. Also seeking an interpretation of the code concerning width of lot at any point.

Mr. Polhemus said a referral had been received from Dutchess County Department of Planning and Development that is a matter of local concern.

The applicant was not present so this application is being adjourned to the January 3, 2011 meeting.

10-10-01 AREA VARIANCE: EDNA HARGRAVE, ROMBOUT ROAD, POUGHKEEPSIE, NEW YORK Grid No. 6362-03-474392 Seeking relief from Chapter 240-26 E. in order to carry out a 2-lot subdivision in which Lot #1 and Lot #2 are not within the 200' square that contains no steep slopes over 25%.

10-10-02 Seeking an interpretation of the code concerning width of lot at any point

There was no one present to represent the application.

Ms. Valk referred to the Decision that had been circulated to the board members prior to the meeting.



Mr. Polhemus asked if Mr. Davidson would like to proceed with the application although a decision could not be made that night. Mr. Davidson decided to go ahead and was sworn in by Mr. Bisceglia.

Mr. Davidson explained that he would like to put a front porch on the house which would extend from the front wall out 8' towards Orchard Road. The length of the porch would be 33'. Mr. Davidson produced some drawings for the board to see. He said the middle portion of the porch would be the entrance and the rest would be open porch. Mr. Christenson asked if it would be a screened in porch. Mr. Davidson said it would be open. The distance to the road would be 34'9".

Mr. Polhemus asked if there was anyone in the audience who wished to speak for or against the application. There being no public comments, Mr. Polhemus made a motion to adjourn the public hearing. Ms. Swanson seconded and the motion carried unanimously. PUBLIC HEARING ADJOURNED TO JANUARY 3, 2011

12-10-02      AREA VARIANCE: PINE HILL ESTATES II, CRAMER ROAD AND OLD OVERLOOK ROAD, POUGHKEEPSIE Grid No. 6361-02-663537 and 6361-02-630549

Seeking relief from Chapter 240-28 Schedule B which requires a minimum lot frontage on a town right of way line of 75' in order to carry out a 2-lot subdivision where Lot #1 will have a frontage of 54.9' and Lot #2 will have a frontage of 50'.

Mr. Polhemus explained that this application is before the Planning Board for a 2-lot subdivision.

John Andrews, P.E. of the firm of Rohde, Soyka & Andrews was present to represent the application. Mr. Andrews said one of the owners of the property, Patrick Reilly was also present.

Mr. Andrews explained the proposal by saying that there are two distinct lots of record, one consisting of about 7.8 acres and the other about .1 acres. The larger lot is defined by the Con Ed right of way and Old Overlook Road. The smaller lot fronts onto Cramer Road. What they are proposing to do is take both lots and realign them into two equal size lots, each of 3.99 acres. The lots are in the R-40/60/80 zoning district and there will be individual wells and septics, therefore the minimum lot size is 80,000 sq.ft. The lots exceed the minimum lot size, however 75' of frontage is required on a town road. These were both existing lots of record when his client purchased them and under the previous zoning a minimum of 50' of frontage was required.

At this point, Mr. Bisceglia led the swearing in of Mr. Andrews.

Mr. Christenson asked to be recused from this application because of his relationship with the applicant.

Ms. Swanson asked if the smaller lot had been in existence for a long time prior to purchase by the applicant. Mr. Andrews said the lot had been in existence for quite a while. It had

been owned by the Arlington Central School District for a number of years. There was no action that created this for his client. Ms. Swanson asked in what years the purchases were made. Mr. Andrews said one lot was purchased in 2004 and the other in late 2004 or early 2005. The larger parcel was acquired first.

Mr. Polhemus asked how acquiring the second lot changed the frontage. Mr. Andrews said it gives additional frontage. The 7.8 acre parcel only had 43 feet of frontage. They would not have been able to get a road in by creating two lots. It gives frontage for one lot on Cramer and frontage on Old Overlook for the other. So if you pick up an additional 11' from the Cramer Road lot, that's how you get the 54'.

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

Kate Millett representing Millett Farm, an adjacent property owner said she had not seen the map and she had concerns about the frontage. Mr. Andrews showed her the map and explained the proposal. Mr. Andrews indicated the other parcel Mr. Reilly acquired on the other side of the power lines which he is not developing at this time, and showed where Ms. Millett's house was in relation to the proposal.

Ms. Millett said according to Mr. Reilly he owns all the trees but she had concerns about the trees that had been planted by the women of Millett Farm. The trees have become very tall and she does not think he can sell them. Ms. Millett said she is opposed to more development.

Mr. Polhemus asked if Mr. Reilly had purchased the land that Ms. Millett had used to grow the trees. Ms. Millett said, yes they had planted those trees. Ms. Millett said she would have to have a survey done. Mr. Bisceglia asked if her concern was that Mr. Reilly would cut the trees down. Ms. Millett said she thinks he is going to roll them over and that is a waste of a tree. Ms. Millett said she wants a survey to see where the trees sit on the property.

Mr. Andrews said this application is before the Planning Board for a subdivision. His client did do a survey and Pine Hill Estates LLC is the listed owner for this parcel, as well as the other one. Mr. Andrews said to the best of his knowledge and belief this property is part of the purchase. As part of the subdivision process, their surveyor will have to certify both the boundary and the lot subdivision before they are done. Mr. Andrews added for the record that this is not the first public hearing that has been held on this proposal. At the public hearing held by the Planning Board some of the individuals present tonight had raised some issues but Ms. Millett had not identified any concerns at that time. Mr. Andrews said, based on their information, their survey and the real property tax records, the property is clearly owned by his client, and has been for quite some time.

Mr. Bisceglia said he did not think Ms. Millett was disputing who owned the property but was concerned about the location of the trees. Mr. Bisceglia asked Mr. Andrews if the trees were depicted on any of the maps. Mr. Andrews said there were no individual trees but there are tree lines shown on the plan and he said Ms. Millett is correct that many of the trees have grown wild and they have become overgrown. He said the bulk of the Christmas trees are on the other side of the power lines, which wraps around and goes over to Overlook Road on

the other side. This is one of the older sections and if you referred to an aerial photo and he indicated on the plan where a group of trees and open space were. He said some trees would be disturbed but they would try to save as many as possible because it would enhance the privacy of his client's lots. Mr. Polhemus asked about the amount of disturbance. Mr. Andrews said they have kept that to a minimum. They have tried to pick open areas for the driveways, house sites, and septic areas. They are going up a hill and they sit well above the neighbors. Mr. Andrews said these are four acre lots with one house on each of them. When the Planning Board did their site walk they did identify some trees they would like to have saved but they were primarily on the other part. Mr. Andrews said this parcel is isolated from the other part and has no opportunities for water and sewer. Mr. Andrews said the balance of the property is about 65 or 70 acres. He said that parcel and the 7.8 acre parcel were purchased at the same time, sometime around 2004. Mr. Andrews said for the record the earlier proposal did receive preliminary approval but when the economy tanked his client re-evaluated his position and put that proposal on hold.

Ms. Millett again expressed concerns about the trees and a survey and felt the whole thing should be thought about.

Ms. Valk said, without any conflicting survey information, unfortunately the Zoning Board did not have any grounds to put this on hold. If the neighboring property owner is able to produce a survey that shows any conflict then things may have to be re-evaluated., but based on the information received this evening there is not sufficient information to delay the board from taking action.

Linda MacIsaac of 14 Cramer Road said her property is adjacent to the Cramer Road driveway. She is not averse to development as long as it doesn't have a negative impact on existing properties. She noted that Mr. Andrews had said the house that would be built behind her house would be uphill. The septic and leach field would be directly uphill from her well and she is concerned about contamination of her well. Her lot is approximately ½ an acre and if her well is contaminated she would have a problem getting water. Ms. MacIsaac's other concern is the water table. Another house located uphill may drain the water from her well. She said she has already sucked air a couple of times when there has been a drought.

Richard Hyland of 16 Cramer Road said he moved here in 1994 from Long Island and he feels this area is starting to look like Long Island. He feels that people have a right to build and move here like he did but he had a problem with the applicant seeking a variance for about a third of the frontage requirement on Cramer Road and almost a third on Old Overlook Road. He did not feel this was fair for the neighbors or for the town, and especially for the closest neighbors to the proposed driveway.

Ms. Swanson had some questions about comments made in the EAF. She referred to the statement that the proposed action would have no effect on agricultural land resources but on page 5 it says the property is in an AG District. Mr. Andrews said the property is indeed in an Ag District but they do not meet any of the thresholds listed – they are not irretrievably converting more than 10 acres, only 7.99 acres. The activity has basically ceased there so he doesn't believe they are inconsistent.

Ms. Swanson said on page 4 there is a reference to a NYSDEC letter which appears to be missing. Mr. Andrews apologized but explained that when they resubmitted a revised EAF to the Planning Board and the ZBA, the DEC letter was omitted and he would get a copy to the Zoning Board.

Ms. Swanson said, similarly, on page 3 reference is made to “CPRHP MAPPING – SEE ATTACHED” and that is missing also. Mr. Andrews said he was sorry. Ms. Swanson asked when was the applicant last before the Planning Board? Mr. Andrews thought it was probably last May. Ms. Swanson asked if there was any opportunity for water and sewer. Mr. Andrews said no. He explained that the power lines are owned by Con Ed and they have little opportunity to do anything with them. The nearest water and sewer is down the road and up on the Frank Farm subdivision which is on the other side of their property and on the other side of wetlands. For two lots it just isn’t possible.

Ms. Swanson referred to page 5 in the EAF. She said #19 talks about Critical Environmental Areas and the answer indicates that the site is not near one but there is no basis for the answer. Mr. Andrews said it was determined by contacting the town. Ms. Valk explained that is a designation that the authority has been vested the town can identify certain sections of the town it wishes to give that categorization to.

Ms. Swanson referred to page 14 which states there will be no effect on drainage or flow patterns. She asked if that is something that has been discussed with the Planning Board. Mr. Andrews said, yes it has and the Planning Board has requested a Storm Water Pollution Prevention Plan which has been filed with them. He has not yet received comments and does not know whether there are any comments but the SWPPP is a requirement of the town.

Ms. Valk said the chairman had asked what action should be taken this evening. Ms. Valk said, since the applicant has not yet possessed a negative declaration from the Planning Board, the Zoning Board is not in a position to issue a variance at this time because the SEQR process needs to be completed. As Mr. Andrews stated, the Planning Board wanted the applicant to come to the Zoning Board to see if the board had any concerns about it. If they had any concerns it would be appropriate to transmit them to the Planning Board. The board has the option of either closing the public hearing, in which case the 62 day clock starts running, however the board could ask the applicant for an extension of that time to allow the Planning Board process to continue, or the public hearing could be adjourned until a date when the applicant is prepared and completed with the SEQR process at the Planning Board, and is prepared to have a variance issued.

Ms. Swanson said, before a decision is made on that she would feel more comfortable if a site visit was scheduled. She had driven by the area but she had not walked the site.

Mr. Bisceglia said he had a big problem as far as the frontage is concerned. The idea of taking a little bit of frontage from one road and combining it with another piece on another road does not seem right to him. He thought that the people who surround the property, which appears to be a very nice piece of property, will suffer from this subdivision. Mr. Andrews said, referring to the frontage, they do not have to do that, they did it simply to bring both to 50’. He said the problem would be that on Old Overlook Road with the existing frontage, the variance would be for 43.9’ because that is all he has. The other one

would be from 61' to 75'. The slight acreage change would not create too much havoc with the Planning Board. They were just trying to make each lot as similar as possible. Mr. Bisceglia said that there is a requirement of 75' and Mr. Andrews said that was true in the R-80 zone. Mr. Bisceglia said at best they are looking at 61' and he has a problem with that. He did not feel it was fair to the existing property owners that the applicant would get this kind of relief for his property. He said there is a reason why the code states 75' and that is to protect the people around the property.

Ms. Valk said that because there is a going to be a site visit, it would be most appropriate to adjourn the public hearing to the January meeting. To that end, Mr. Polhemus made a motion to adjourn the application to the January meeting. Ms. Swanson seconded and the motion carried unanimously. PUBLIC HEARING ADJOURNED TO JANUARY 3, 2011.

The board agreed to meet for a site visit on Saturday, December 18<sup>th</sup> at 9:30 a.m. Mr. Andrews suggested that the best place to meet would be at the Old Overlook Road location.

There being no other business before the board, Mr. Polhemus made a motion to adjourn the meeting at 8:30 p.m. Mr. Bisceglia seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley, Secretary  
Zoning Board of Appeals