

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday December 15, 2009. Chairman Alan Bell called the meeting to order at 7:30 p.m. Board members Robert Straub, John Gunn, Tony Brenner, Stacy Olyha, Joe Zeidan and alternate board member Kevin Donohue were present. Dennis Rosenfeld was absent. Also present was Wanda Livigni, Administrator of Public Works, Walter Artus from Stormwater Management Consultants and Greg Bolner from Clark Patterson Lee.

Mr. Straub made a motion to accept the minutes of November 17, 2009, seconded by Mr. Gunn and the motion carried unanimously. MINUTES ACCEPTED.

OTHER BUSINESS:

TACONIC CROSSING AMENDED SITE PLAN- Proposed site plan located on Rte. 55 containing 10.5 acres (Gird No. 084940, 128948); set public hearing

Mr. Straub made a motion to set the public hearing for January 19, 2010, seconded by Mr. Gunn and the motion carried unanimously. PUBLIC HEARING SET.

Ms. Olyha said according to the meeting she had with Wanda they were supposed to seed and mulch the front area and revise their map to show that they were just clearing spaces toward the back, not toward the front and she said she wanted to make sure it was done. Mr. Bell said he talked to Wanda and said he asked here if there was anything outstanding that would prevent the board from setting the public hearing and he said Wanda said there was not. Mr. Artus said he physically inspected the site as well.

BROTHERS COMMUNICATIONS CELL TOWER AND SPECIAL USE

PERMIT – Proposed site plan and Special Use Permit located on Sedgwick Road; consideration of SEQR determination, site plan approval and Special Use Permit.

Mr. Mark Redl was present. Mr. Artus said they are lacking the RF emissions report which they discussed. Mr. Bell said until the board had that they couldn't do much. Mr. Bell asked Mr. Redl if he thought he could have it by next month.

Mr. Bell said he spoke to Mr. Artus and said they talked about different ways they could reach the approval of the project but also insure that this necessary certification to meet the federal requirements is done before they built the tower. He said they discussed the possibility of making it a building permit thing. He said it is an environmental issue and it was raised by the public and said it's cleaner to have this done before they do the environmental review. Mr. Redl said he thought that was totally separate. Mr. Bell said the town does not have the ability to regulate what those emission standards be by town, the Federal Government sets the standards but the board has a legal obligation to make sure those standards are met. Mr. Bell said what is prohibited is the public determining that they think, even if it meets federal standards, it's still a concern and the board consideration whether that's true. Mr. Bell said the purpose of it is to prevent every town in the country from having their own standards.

Mr. Redl said they are in negotiations and trying to get this information from the cell company when you are still in negotiations is tough. Mr. Bell asked if they provided the report. Mr. Redl said he would have to twist arms. Mr. Bell said this sounded similar to the discussion they had about the engineering report for the structure, however, in that case the company was saying they weren't sure and they didn't want to do the engineering analysis. Mr. Redl said they were telling him the same thing with antennas. Mr. Artus said most wireless companies know what antennas they use, they know the height and that's all they need to know and then they perform their calculation and it is usually a one-page report. Ms. Valk said Mr. Artus did wireless cell tower for a number of years and his opinion is well founded in his own experience.

Mr. Bell said he felt the board should have it before they did the SEQR. Mr. Bell said if they want to further discuss the issue, the wireless company should feel free to discuss it with the town's consultant, who is an expert on the topic.

Mr. Redl said when he asked Verizon for an RF report he was told by them that there were different ones. Mr. Bell asked Mr. Artus if he could send Mr. Redl an e-mail outlining what he needed to ask for and if Verizon was still confused, have them call Mr. Artus directly. Mr. Redl said whatever Mr. Artus sends him, he will forward to Verizon. Mr. Bell said his only concern was that the exchange take place quickly and they know what they need to produce so they are not having this discussion next month.

Ms. Valk asked the board if they wanted her to draft a resolution for the January meeting and Mr. Bell replied yes.

HEBERT SUBDIVISION – Proposed 2-lot subdivision located on Skidmore/Sunset Hill Road containing 12.0 acres (Grid No. 6562-04-675345); consideration of SEQR determination and preliminary subdivision approval

Mr. Bell asked Ms. Valk where the project was. Ms. Valk said the judge signed an order specifically permitting the Planning Board to continue. She said she worked with the applicant's attorney and they submitted an order to the judge which he signed specifically lifting the restraining order. Mr. Artus said they were ready for a SEQR determination and preliminary approval.

Mr. Bell said this was a routine subdivision that was held up because there was a restraining order filed and the board was waiting for clarification that it had been lifted.

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. Brenner seconded it and the motion carried unanimously. **NEGATIVE DECLARATION**

Mr. Gunn made a motion to grant preliminary subdivision approval, seconded by Ms. Olyha and the motion carried unanimously. PRELIMINARY SUBDIVISION APPROVAL.

Mr. Morris said they did get Health Department approval and would submit the letter to the town.

Mr. Artus recommended the board could grant conditional final approval. He asked if they submitted the acknowledgement of coverage and Mr. Morris said he didn't submit it yet. Mr. Artus said it would be the acknowledgement of coverage for the SPEDES permit coverage. He said it was just a basic SWPPP.

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

Mr. Donohue made a motion to grant a Special Use Permit for Hebert Subdivision being located in the Ridgeline Protection Overlay Zone, seconded by Mr. Straub and the motion carried unanimously. SPECIAL USE PERMIT.

LAGRANGE PHYSICAL THERAPY SITE PLAN – Proposed site plan located on Freedom Plains Road containing 1.09 acres. (Grid No. 6360-02-626880); consideration of site plan approval.

Mr. John Burke and Fred DeBernardo appeared before the board. Board member Dennis Rosenfeld was not present and requested his comments be read into the record.

“Alan,

Due to a conflicting schedule, I won't be able to attend the December planning board mtg. However, I did want to voice my opinion on the LaGrange Physical Therapy screening issue. I made a visit to the site a few days after our November mtg during the daylight. The property line screening between 761 and 767 Freedom Plains Road, to my mind, is not adequate, either as a physical barrier or a privacy screen. From the rt. 55 curb running along the shared property line, the shrubbery is deciduous and offers no screening from late fall until mid spring bud-out. Further down the property line, I saw a stand of what appeared to be some type of cedar trees. The tree trunks were approximately 4" diameter, but didn't have branches on them from ground-level until about 3 or 4 feet high. The applicant's installation of an acceptable fence, as previously discussed would address this issue. Also, on the site plan, the applicant showed 2 foot high plants running along the front of the property parallel to rte. 55. I am curious to know what the mature height of the proposed planting would be. At the 2 foot height, this would do little to screen client parking from rte. 55 traffic.”

Dennis. R.

Mr. Bell asked about the 2-foot high trees. Mr. Burke referred to page 2 or 3 Mr. Burke spoke and was not audible because he did not use the microphone.

Mr. Bell said they have had a number of applications over the years where an area that was previously residential has been rezoned to commercial and whenever the board has this they try to be sensitive. He said he understands that the people coming in are commercial and the board isn't going to say that can't build but the board also tries to be sensitive to minimize the impact on the residents.

Mr. Burke showed the board a copy of the site plan showing a fence. The board discussed the size of the fence, 6' high and 80' long. The board decided to extend the length of the fence by 20' so the length would be 100 feet long.

Mr. Artus spoke. He said he received a call from Dave MacDougall at the Health Department that day and said he sent a memo out to the applicant's engineer with some minor comments including showing an expansion area for the existing septic. Mr. Artus said he was assuming that the existing septic will accommodate the proposed use since it was residential and now it is commercial. Mr. Artus talked about the percolation rates and Mr. MacDougall would require a fill section shown over it. Mr. Artus said he hasn't seen the comment memo. Mr. Artus said SEQR has been done.

Mr. Artus said Mr. MacDougal talked about possibly replacing the septic tank. Mr. Bell said the board needed an updated plan, satisfaction of comments made by the Health Department. Mr. Bell said he would be inclined to issue a conditional approval but the board's practice is to not issue any approvals before Board of Health approval.

Mr. Bell said the applicant needs to make the changes on the site plan and send it back to the Health Dept. The board discussed this issue with Mr. Burke and Mr. DeBernardo. Ms. Valk said this board has never issued approval without Health Department approval.

Mr. Donohue said he didn't think the board could get to this point if they could not obtain Health Department approval. He said it sounds like the concerns are just administrative rather than there's a failure and they need an expansion area. Mr. Bell said that is probably true of almost everything the board reviews. By the time the board is waiting for Health Department approval, all of this stuff has been reviewed by engineers that are professionals at this so the chances of the Health Department looking at it and saying it's not going to work are almost zero for all of them. Nevertheless, the board does not issue approval conditioned on the Health Department approval. It's not the way the board does it. Mr. DeBernardo talked about getting the Health Department approval for the meeting. Mr. Artus said Mr. MacDougall did tell him that he said he would have it done in time for the meeting, but the Health Department did not make the deadline they said.

Mr. Artus said they at least need the letter and they have to have the actual stamped plans.

The board discussed the owner's consent signature block and Mr. Burke asked if it was ok. The board said the block was fine.

Mr. Bell advised the applicant that the escrow needed to be replenished. The board and the applicant agreed to \$250.00.

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

Mr. Bell said he had a note from the DEC stating there are no permits required for the proposed work and that they caution there are wetlands adjacent to the property and the board should ensure if there is any disturbance within the wetland or buffer that it is noted. Mr. Bell said he didn't believe there was any disturbance in that area.

Mr. Artus said comment # 7, a small portion of their driveway is at 12% grade and typically the board requires 10% but the board can allow the driveway up to 15%.

Ms. Olyha said the board agreed to where the house should go with minimal disturbance so she said she would go with the 12%. Nobody on the board objected.

Mr. Artus referred to Part 1 of EAF referring to the site being located in an identified archeological sensitive area, however it is on the edge of it. The project does not require any state or federal permitting or funding. It is only one residence and driveway and a septic, there is not a lot of disturbance. He said the board may wish to consider waiving the requirement for a archeological study. The board had no objection.

Mr. Gunn made a motion to waive the requirement for an archeological study, seconded by Mr. Straub and the motion carried unanimously.

Mr. Gunn 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. Straub seconded it and the motion carried unanimously. **NEGATIVE DECLARATION**

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

Ms. Olyha said the board should explain why they were waiving the archeological study. Mr. Artus said it was such a minimal area of disturbance. Ms. Olyha said it was more by the hillside than down by the creek. Mr. Artus agreed.

BILLINGS WEST LOT SUBDIVISION – Proposed 2-lot subdivision located on Rte. 82 containing 90.29 acres (Grid No. 6561-03-423054); discussion/update.

Mr. Jason Morris appeared before the board regarding this application.

Mr. Bell referred to the note from the Building Inspector.

TOWN OF LAGRANGE
OFFICE OF BUILDING INSPECTOR
120 Stringham Road, LaGrangeville, NY 12540
845-452-1872; Fax 845-452 7692

SUBDIVISION ZONING REVIEW

DATE: DECEMBER 15, 2009
TO: PLANNING BOARD
PROJECT: BILLINGS WEST 2-LOT SUBDIVISION.
GRID NOS. 6561-03-423054
APPLICANT: PAUL DOHERTY
DUE DATE: DECEMBER 15, 2009

We have received and reviewed the following materials for the above referenced project:

- Subdivision application
- Long Form Environmental Assessment Form
- Subdivision map dated 10-03-08

The applicant is proposing to carry out a 2-lot subdivision of his 90.29 acre parcel located on Route 55.

The following observations are made:

- Proposed Lot #1 consisting of 6.81 acres is located in the newly created C-2 zoning district and is improved by a single family residence.
- Proposed Lot #2 consisting of 83.48 acres is an unimproved lot in the R-120 zoning district. This parcel has extensive rock ledge and steep slopes
- The subdivision of the property will result in Lot #2 becoming a landlocked parcel. Chapter 240-28 Schedule B requires a minimum lot frontage on a county or state highway of 225 feet.
- This matter should be discussed as to why the applicant has chosen to create a landlocked parcel.

Respectfully submitted,

Kenneth W. McLaughlin

Kenneth W. McLaughlin
Building Inspector

cc: Wanda Livigni



Mr. Bell and the board looked at the maps. Mr. Bell asked if this was currently a single lot. Mr. Morris said yes. Mr. Bell asked Mr. Morris if there were any plans for the other parcel. Mr. Morris replied no. Ms. Livigni said they have been to the town with an as-of-right count for this parcel. Ms. Olyha asked if they were planning on roads from Rte.

55. Ms. Olyha said the land has been given for the fields. Mr. Bolner said there's been no dedication, and Ms. Olyha agreed, and said that is why they did the as-of-right count. Mr. Bell said the question whether the frontage for a residential property is 100' or 225'. Mr. Doherty said he knew it was 225' for the commercial. Ms. Olyha asked where the line was for the zone. The question was where did the C-2 start. Ms. Bolner referred to the code and said it was 225' on a State Highway and it is 100' on a town road.

Mr. Bell said he wanted to understand the plan for the stuff that isn't planned right now. Ms. Olyha said they were clustering. Mr. Doherty showed the board continued to discuss the land and what part would have a building on it. Mr. Bell talked about circulating because it was ridgeline and also setting the public hearing for January. Eileen Mang, Planning Board Secretary said that wouldn't work because there was not enough time to circulate and allow the 30 days to go by before holding a public hearing.

. The board said they could declare themselves Lead Agency in January and set the public hearing for February.

BILLINGS WEST LOT LINE REALIGNMENT – Proposed Lot Line Realignment located on Rte.82 containing 173.41 acres (Grid No. 6561-04-643134; 835340); discussion/update.

Mr. Jason Morris of M.A. Day Engineering was present. Also present was Paul Doherty. Mr. Bell referred to the Building Inspector comments; The

TOWN OF LAGRANGE
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845-452-1872; Fax 845-452 7692

SUBDIVISION ZONING REVIEW

DATE: NOVEMBER 12, 2009
TO: PLANNING BOARD
PROJECT: BILLINGS WEST LOT LINE REALIGNMENT.
GRID NOS. 6561-04-643134 & 6561-04-835340
APPLICANT: PAUL DOHERTY
DUE DATE: NOVEMBER 17, 2009

We have received and reviewed the following materials for the above referenced project:

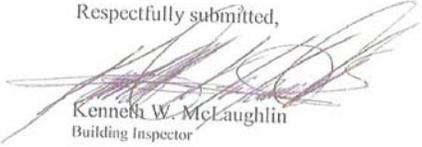
- Subdivision application
- Short Form Environmental Assessment Form
- Subdivision map dated 10-23-08

The applicant is proposing a lot line realignment between the lands of Red Wing Properties, Inc. consisting of 121.19 acres which is unimproved and the lands of Richard Ryan Excavating which contains 48.75 acres which is the site of a soil mining operation. The properties are located in the R-120 zoning district.

The following observations are made:

- It is proposed that 3 acres be conveyed from the Red Wing property to the Ryan Excavating property.
- The Red Wing property is located within the Ridgeline Protection Overlay Zone. A special use permit will be required.
- The 3 acres to be conveyed contain town wetlands, 100 year flood plain and an unnamed stream which have not been included on the plat
- Five foot contours should be added to the plat. (The Planning Board may wish to waive this requirement)

Respectfully submitted,



Kenneth W. McLaughlin
Building Inspector

cc: Wanda Livigni



The Planning Board discussed the comments of the Building Inspector. The issue of 5' contours was discussed and the applicant requested a waiver. The board had no

objection. Ms. Olyha made a motion to waive the five feet contours to be placed on the map, seconded by Mr. Donohue and the motion carried unanimously.

Mr. Morris asked for a waiver on the Ridgeline. Mr. Bell said the board has no authority to waive a Special Use Permit that he was aware of. Mr. Donohue said he thought the Ridgeline was for development and there is no development. Mr. Bell said a lot line realignment is a subdivision. Mr. Donohue said he doesn't propose any construction. Mr. Bell said then if he subdivides he will only need a building permit to put a house on the lot that he created and then the applicant won't have to come back to the board for anything, which means he will have evaded the law. Mr. Bell said the board needed to back up. He asked the applicant what he was doing.

Mr. Morris showed the board on the map the line they were proposing to move, a simple shifting it from one area to another. The lot has a dwelling on it already and they would have to come in for a subdivision if they wanted to create a separate lot.

Mr. Bell said the board would consult with their attorney as to whether the board can waive that requirement. Mr. Donohue said he didn't think they needed a waiver. He said has the ordinance and it's for development and since there is none proposed he suggested they talk to Mr. McLaughlin because his authority is saying they need it.

Mr. Bell repeated that he would ask the attorney if they needed it or not. Mr. Donohue said the applicant can go and talk to him because it says any proposed construction or development within the ridgeline including the subdivisions but you have to have development included. Mr. Bell said the board doesn't know what the purpose of this is. Ms. Olyha said if they are going to develop it, they would have to come back to the board.

Mr. Bell said since Mr. McLaughlin has determined that they need a special use permit they have two options, they can go downstairs and read him what he just pointed out and ask Mr. McLaughlin to change his mind since they are not doing any development or they can go to the ZBA and plead their case or they could go through the process and the board could grant them a permit. Mr. Bell and the board discussed circulation. It was agreed that the applicant would talk to Mr. McLaughlin. The board set an escrow of \$1,000.

TOBIN FARM SUBDIVISION – Proposed subdivision located on Freedom Road/County Road 57 (Grid No. 6461-01-329596, 6461-03-385450); pre-application discussion.

_____ Mr. _____ of Taconic Design Engineering was present. Mr. _____ said this was 142 acres on Freedom Road across from the park located in the R-80 zone so it has the 120,000 sq. ft. overlay for the aquifer. He said they are proposing to do an as-of-right based on 80,000 sq. ft lots, but their total unit is still under. They would be entitled to 51 lots based on 120,000 sq. ft. gross density but they did an as-of-right based on 80,000 sq. ft lots to determine the lot count and they come up

with 49 lots and then they would do a cluster. The board reviewed the map based on what Mr. _____ just spoke about. Mr. Bell asked if the as-of-right had to be on the 120,000. Mr. _____ said they are proposing a central sewer system package plan for the project. However the 120,000, the way he read it, was the gross density and they are under 120,000 gross density. He said if you calculate it out, the 49 lots is about 125,000 sq. ft. per lot and they would be going with a cluster for the development plan. Mr. _____ said that is why they were before the board, to see if that was a viable process before the board.

Ms. Olyha asked where the actual property line was. Mr. _____ showed the board, and pointed out the DEC wetland. Ms. Olyha asked why they had lots over the property line. Ms. Livigni said with the as-of-right count, they would have to show the building squares and that you can get them in. Ms. Livigni said there can be no environmental encumbrances, steep slopes and the easement and the board doesn't like stuff on top of hills. Ms. Olyha said it has to be able to be built as if the board approved it as the as-of-right, it has to be able to be built to the standards and what the board would like to see in that area. Mr. Bell said the building squares would have to avoid steep slopes and wetlands. Ms. Olyha said since it is not central water they have to show where all the wells would be.

Mr. _____ then showed the board what they actually want to do, including shortening up the roads and keeping everything away from Freedom Road and the park, the lots would be built to 20,000 sq. ft. minimum, roughly about ½ acre. Mr. Bell asked what the contour scales were. Mr. _____ replied they were two-footers.

Mr. Bell asked if this was real steep or not. Mr. _____ said it was real steep. Mr. Bell said they would have problems getting building squares on them. Mr. Bell said in order for this to be an as-of-right, they have to demonstrate that they could actually get th is approved and built and he said he thought they would lose some of those lots because of steep slopes. Ms. Olyha asked about the length of the cul-de-sac. Mr. _____ the total length of the road in there was about 6,600 feet and he said he didn't know how long the cul-de-sac was. Ms. Olyha said 1,250 was the max.

Ms. Olyha said the road looks like it is going right over the high point of the whole property. Mr. _____ showed Ms. Olyha the ridge and added they were going right underneath the one side of the ridge. Mr. _____ said they meet the gross density requirement. He said if you take the 142 acres and divide it by 120,000 sq.ft. per lot, they end up with 51 lots and they were under that. He said there really is no criteria for 120,000 sq. ft. lot as far as geometry with depth and stuff like that so would they be able to do an as-of-right showing lots of 80,000 and their overall density is still under 120,000 for the entire site, He said that's the question. Mr. Bell said they would get an answer to that before they spent a lot of money. Mr. _____ said if they can get an answer on the 80,000 they would make a submission. He said the question is can their as-of-right have 80,000 sq. ft. Mr. Livigni said their needs to be a more formal submission that shows the scale and then it should go to the zoning office and Walter Artus, in which case the board should establish an escrow. Mr. Bell said in order for Walter to look at this

there has to be some form of an application and minimum maps to go along with it. Ms. Livigni said since this is still in the pre-application state, maybe it was something the zoning office could answer. Ms. Olyha said they should be able to. Mr. Bell said that was a good idea. Ms. Livigni suggested setting up a meeting with Zoning to work through it. Mr. _____asked because of the overlay did each lot have to be 120,000 sq. ft. . Ms. Olyha said that is the question they would need to ask zoning.

Mr. Zeidan asked about the drainage of the roads off the property line. He said make sure they look into it because in his development the town was stuck with a bill because some of the drainage wasn't right and the town had to fix it. Mr. Bell said he was confident that the matter of storm water would be adequately addressed at the appropriate time.

SMITH SPECIAL USE PERMIT – Proposed Special Use Permit located on Noxon Road containing 6.107 acres (Grid No. 6459-01-138964); set public hearing.

Ms. Livigni said the Smith's were fortunate to get some free fill. They currently own 2 lots that abut each other, one of which they are currently living on which is 1 Old Noxon Road. She said the abutting lot is an approved building lot that needs fill. In the spring they got this free fill and they had a discussion to make sure the fill wasn't stock piled in a wetland or floodplain and promptly put up a silt fence and everything was good temporarily. She said they have reached the point where the fill has to be moved because it's been sitting too long. She estimated there was over 100 cubic yards of fill there and they have provided a letter certifying the fill is clean from the hauler. Ms. Livigni said they are proposing to put the fill in the building lot so they can develop it at some later point.

The board set an escrow of \$200. Ms. Olyha made a motion to set the public hearing for January 19, 2010, seconded by Mr. Gunn and the motion carried unanimously. PUBLIC HEARING SET.

Mr. Bell advised the applicant to make sure that they have the affidavit from the newspaper indicating it was published because if he doesn't they cannot legally hold the public hearing.

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

Respectfully submitted

Eileen Mang
Planning Board Secretary

