

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 24 Firemens Way on Thursday October 18, 2012 at 7:00 p.m., Chairman Bell called the meeting to order at 7:45 p.m. Board members Tony Brenner, Frank Sforza, Joe Zeidan, John Gunn, Robert Straub and Dennis Rosenfeld were present. Also present was Wanda Livigni, Administrator of Public Works, Walter Artus from Stormwater Management Consultants, Greg Bolner from Clark Patterson Lee and Ron Blass from VanDeWater & VanDeWater.

Mr. Straub made a motion to accept the minutes of September 20, 2012, seconded by Mr. Rosenfeld and the motion carried unanimously.

**PUBLIC HEARINGS:**

**VAIL ROAD SUBDIVISION & SPECIAL USE PERMIT** – Proposed 3-lot subdivision located on Vail Road containing 68.85 acres (Grid No. 6361-03-393169)

Mr. Steven Burns from Barger & Miller and Mr. Dave Stenger were present.

Mr. Burns said this is a 3-lot subdivision along Vail Road. He said this is 3 large lots consisting of a 68 acre parcel, each lot will be a little over 20 acres, served by individual well and septic and served by a common driveway and showed the board the access. He said the other ones are a little bit limited on sight distance and said it was better to keep another curb cut off of Rte. 55. He said the common drive will come in, split, and serve the 3 lots. He said they are in front of the ZBA for a couple of variances. Because of the way the town zoning is written, they need the vaiances for frontage and minimum lot width because the minimum lot width, the way the code is written, doesn't allow for a flag lot, which these are. He said all the lots will have frontage and he referred to the lot that will have frontage on Rte. 55 and he referred to another lot that will have frontage on Vail Road, through the common driveway access point and the 3<sup>rd</sup> lot will have frontage on Vail Road through a 50-foot strip.

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

Lorraine Melton of 599 Freedom Plains Road asked in these lots, can they be subdivided later on. Mr. Burns said there is a possibility to be subdivided later on but it would mean that they would have to install a town road. Mr. Bell said to answer your question, nothing would prevent someone from starting the same process all over again at some future date, but if they were going to do that, they would have to meet all of zoning requirements they are talking about and as Mr. Burns said about the town road, they've already got problems with frontage and so the only want that would be possible is someone would have to build a road up into the property to provide that access. He said this property has tried a number of times to develop it with a lack of success because of problems along those lines. Mr. Bell said is it possible? Yes.

Ms. Melton said her concern as it was 7 years ago as well as all of her neighbors is they are concerned about their wells. She said she was very concerned their wells would become

contaminated. Mr. Bell said if it was a large subdivision. Mr. Bell asked if she was concerned about contamination of her well but a large number of homes, right? Ms. Melton said yes, and added not necessarily the 3 homes. Mr. Bell said part of the approval for this or any other subdivision would include the Dutchess County Department of Health approving and ensuring that they were comfortable that it would not happen. Approval of the project requires their approval to go forward or the board wouldn't approve it. Ms. Melton asked about the tax base for 22 + acres. Mr. Burns said he did not know.

Mr. Stenger said he was one of the owners of the property and added he had no problem putting in a deed restriction with a note on the map stating "no further subdivision"

Ms. Melton said "we love you".

Elaine Gladdis of 635 Freedom Plains Road said she is concerned about land getting disrupted and water conditions. She said she live on Rte. 55 and had to have a bee dry system done on her property and she doesn't want to disturb it. She said if she does get water after they start building she asked if she had any recourse. Mr. Bell told Ms. Gaddis part of the requirements that the town will place on the developer is a restriction as such that the result of this subdivision does not result in extra water from this property ending up on anyone elses property. He said that will be reviewed in the detailed plans by their engineer to ensure that does not happen. He said it's not a direct answer to your question about recourse, however, your recourse would be suing somebody in court if something happened, he supposed. He said he was assuring her that the Board is going to do everything in our power to make sure that the board reviews the plans in such a way to make sure the storm water stays on that property rather than ending up on hers or anyone elses.

Ms. Melton asked if she could get a copy of the minutes from this. Mr. Bell said the minutes are always put on the website for the town and are available to anyone and if you don't have access you can come in to the office and ask for a hard copy.

Mr. Ken Ratford of 20 Vail Road said a lot of the concerns is to see these roads already put in place and said Mr. Bell said before it wasn't allowed because of certain restrictions. Property changed hands in 2011 and all of sudden all these roads are put in, driveways. Mr. Ratford asked how did we get to that point.

Ms. Livigni said the property owners, when this transferred and West Lake was withdrawn from the Planning Board, that lot is a building lot so the building inspector/zoning administrator – Ken McLaughlin said they had the authority to put one house in and they did say that there was the potential that they would come in with a 3-lot subdivision. Ms. Livigni said they legally have a right on that one large lot to build a house on it, so that's what they did. Ms. Livigni said they did disclose that there could be a chance if the guy didn't buy the whole lot and they may end up doing a 3-lot subdivision. So when they put in the driveway, and yes it is a driveway, because if it is a town road then we are maintaining it. Mr. Ratford said you can call it what you want but, but it's a road. Ms. Livigni said it wasn't built to town highway standards so that is for

clarification. Ms. Livigni said when they came in, they built the driveway that would serve the potential 3 properties, the problem they ran in to is they cleared over an acre of land and there wasn't a SWPPP site and then you may see that they went in and did more work, that's because they had to go out there, perform the SWPPP and do storm water erosion sedimentation control measures on the site. That's a separate issue. She said that was resolved, they came in and fixed that and did the proper controls out there and she said they lost the buyer for the whole lot. Ms. Livigni said she works for the town and has nothing to gain by this.

Mr. Ratford said that's his concern, you give him then an inch and they take a mile. He said once you give them access to the property, other issues come up and now they have to take care of these other issues because they've already gained access to the property. It's like a snow ball affect. Ms. Livigni said they own the property and have had access all along. Mr. Ratford said not according to the meeting they had 7 years ago, they didn't have access all along, that was one of the concerns, the access on Vail Road is not a proper access and the access on rte. 55 is not and neither is the property on here, the other property going to Vail Road.

Mr. Bell said to Mr. Ratford, your question is why they could do this without being in front of the board and the answer is because they came in with a single lot and asked to build a driveway on to that lot and build a house on that lot. You don't have to come to the Planning Board to ask to build a house on a lot. Mr. Ratford said if it is one house they are proposing, why is there 3 fingers going off in different directions. Mr. Bell said that's why they are here now. Mr. Ratford said the ZBA said 2 weeks ago to them, "the cart is before the horse".

Mr. Ratford said it gives the neighbors less of a leg to stand on and them more. The access has already been given and Mr. Bell said he didn't think that was accurate, they still have to satisfy all of the requirements to build a subdivision whether that building is there or not, and if they don't satisfy the requirements to build the subdivision, we will deny them and they won't be able to build more. Mr. Burns said there is still an open building permit on the property to start construction on the house, it was after the buyer backed out, construction stopped. M. Ratford asked Mr. Burns – someone was looking to buy 68 acres to put one house on? Mr. Burns replied yes. Mr. Bell said to address the point Mr. Ratford just made, the fact that they've done what they've done does not provide them advantage to getting approval that they would have had without having done that at all nor does it put any of the neighbors at a disadvantage in terms of expressing your concerns and the board insuring that those concerns are satisfied to the board's satisfaction. Mr. Ratford said that's what they are concerned with. Mr. Bell said he understood. Mr. Bell said Mr. Ratford's concern is that it is a done deal and he added that he can assure everyone that it is not the case. Ms. Livigni said in the event that the planning board does not approve a 3-lot subdivision, any driveways would have to be removed. Mr. Livigni said the applicant proceeded at his own risk. Mr. Ratford said these are the same questions they have asked before and they have never gotten answers. Mr. Bell said to Mr. Ratford that there's been a lot of questions and his suspicion is that there were no adequate answers and so those projects did not go forward. We are on the absolute first stage of this project and you are asking the same questions and we will require them to answer those questions in writing and

see where it goes. The fact that they've cleared the site and done things does not affect the board's judgment as to if this is going to meet zoning or not. Mr. Bell said he's not sure they have ever been denied, he said what normally happens in these situations is a number of concerns are raised, they are required to address those concerns to the satisfaction of the board and if they can't then it usually doesn't get to the point of the board voting no. They just go away and he suspects that's what happens which is why they are back with a 3-lots instead of 26 because they are hopeful that this will work in a way that those did not.

Mr. Straub made a motion to close the public hearing, seconded by Mr. Brenner and the motion carried unanimously. PUBLIC HEARING CLOSED.

**NISI LOT LINE REALIGNMENT**- Proposed lot line realignment located on Todd Hill Road containing 4.49 # 3.3 acres (Grid No. 645004-541453)

Nisi has a 280 problem which means they don't have frontage on an existing town map street and if have a 280 A problem which means you don't have a buildable lot as a consequence there is 2 fixes. Fix # 1 is to go to the ZBA for a 280 A variance from the lack of frontage and the other opportunity is to go to the Town Board for a so called open development area under a 280 A of the town law. He said what he has heard today is that the applicant is going to the ZBA for a 280 variance. Mr. Bell said so they go the ZBA next month, is the ZBA going to send it back to us for SEQR. The answer was yes. Mr. Bell asked so why wasn't the applicant present tonight. Ms. Livigni said the last meeting they had with the professionals they were going to do the Town Board this week, start that discussion and they chose not to.

Mr. Bell said last month they opened the public hearing and asked if there were public comments. There were none. Ms. Livigni said they were going to respond to Audrey's comment letter. Mr. Bell said ok, so we are ok on that front. Mr. Bell said so basically the hearing is open until they go to the ZBA and start that process, the ZBA will knock it back to the Planning Board, at which time the board will handle SEQR and then send it back to the ZBA.

Mr. Artus said being it is a lot line realignment it is being treated as a subdivision as far as the code is concerned. He said he didn't think they were going to meet the minimum building square requirements on that parcel. He said he didn't have it in front of him right now but that was one of the discussion with Audrey, and that might have even been mentioned in her previous comment memo. Mr. Artus said if is being treated as a subdivision, there are other zoning requirements to be met. Mr. Blass said, square on a lot.

Ms. Livigni said when Z3 consultants met with her and Ken last week, they did come in with the building square, they did not have the floodplain on there, the submission that was made to the ZBA now shows the floodplain, they have moved the lot line again so that the building square

can actually fit without of the environmental encumbrances. Mr. Artus said that's what he thought might have to happen.

Mr. Blass said would it be helpful to do a coordinated review and have the Planning Board be the Lead

Agency on this matter and asked has that been discussed yet. Mr. Blass said the board might do more business tonight and have the Planning Board express its intention to be Lead Agency and that way there would be one SEQR review. He said alternatively both the Planning Board and the ZBA would have to do their own independent SEQR review. He said he's thinking of what is most efficient here. Mr. Bell asked if that was even permissible. Mr. Blass responded yes, it is because it is an Unlisted action and a coordinated review is not mandatory it's only mandatory for Type I actions. He said under SEQR larger projects, so if was a large project it wouldn't be permissible and if it's a small project, it is. Mr. Blass said the ZBA could actually do their own independent SEQR review as a part of the 280 A variance if they wanted to and then the Planning Board could do their own independent SEQR review when it comes back to them. Mr. Blass said he wasn't sure the coordinating buys anyone any time or efficiency on something this small. Mr. Bell said the ZBA usually defers to the Planning Board for SEQR, they usually don't make decisions until the Planning Board has reached a SEQR determination and he said he guessed that was ok from what Mr. Blass is saying, it doesn't need to be a formal coordinated review. They can simply say well, we will see what the Planning Board has to say. Mr. Blass said but if you would like it to be and it is your policy to have a coordinated review and if is the ZBA's expectation that there will be one, you could certainly do that and start it off tonight by making the declaration to be Lead Agency and giving the notice to the ZBA to consent and he said he was sure they would happy to consent at their next meeting.

Mr. Bell said we don't usually do it that formally and added he was beginning to think this was a good idea to start doing it that way, to say the Planning Board intends to be Lead Agency, the ZBA will say that's fine and then it seems more organized.

Mr. Bell said one of his frustrations with these kind of applications over the last few years is, it just seems disorganized and this is putting in a structure that appeals to him.

Mr. Blass said we did this recently, a coordinated review with the County. Mr. Bell said coordinated review with other agencies, yes, he was more than familiar with that. He said it's that when we get these that don't go outside the town , but there is variances required it seems like the handoff between the Planning Board and the ZBA is clumsy and this seems like it puts a little structure in it.

Mr. Blass said if they did it this way, the notices would go out, the ZBA would have it at their November meeting but would not be in a position to take action and then it would back to the

Planning Board's November meeting for a SEQR determination, then go back to the ZBA for their December meeting for a determination. Mr. Bell said if we don't do that then they could in theory do it all at their meeting. They could do a separate independent SEQR review. The question is would they be likely to. Mr. Bell asked if they have seen this at all. The answer was no. Mr. Bell said they are not going to do this in one month.

So Mr. Bell said so let's declare the Planning Board's intent to be Lead Agency. Mr. Straub made a motion to that affect, seconded by Mr. Brenner and the motion carried.

**CANALE SPECIAL USE PERMIT** – Proposed accessory apartment located on Keith Drive (Grid No. 6361-01-069566)

Mr. Vining appeared before the board. He said they want to finish the Canale's basement and include a kitchen. Mr. Canale travels extensively for business and has 2 small children and his parents care for the children when he is out of town and they want to finish that space and provide a kitchen for them to use. Mr. Bell asked who the apartment would be used by and Mr. Vining replied Mr. Canale's parents. Mr. Bell said everything looks like it is in order. Mr. Livigni said she didn't know. Mr. Bell said the board received something in their packet last month indicating it was. Mr. Bell declared the public hearing open and asked for public comment. There were none. Mr. Rosenfeld made a motion to close the public hearing, seconded by Mr. Straub and the motion carried. Mr. Gunn made a motion to grant the special use permit, seconded by Mr. Straub and the motion carried. SPECIAL USE PERMIT GRANTED.

**SHIR CHADASH SITE PLAN** – Proposed site plan located on Freedom Road containing 4.81 acres (Grid No. 6260-04-803168); requesting adjournment to November 15, 2012.

Mr. Straub made a motion to adjourn the public hearing to November 15, 2012, seconded by Mr. Gunn and the motion carried unanimously. PUBLIC HEARING ADJOURNED

**DALEY FARM PDD** – Proposed Planning Development District located on Daley Road/Noxon Road (Grid No. 6360-03-081270/229310); findings statement

The Board discussed some changes made and some inconsistencies between the letter that documented a meeting between the applicant and residents of the adjacent properties and that the agreements documented in those minutes of the meeting didn't match the text and the maps in the findings statement. So he said it was his understanding that they have been updated to reflect those so they are now consistent. Mr. Bell asked Mr. Blass if that was correct and Mr. Bell replied yes. He said there's a new map and some of the narrative material needed to be tweaked on page 44 and 45 and page 7 which has been done. He said Wanda has seen it and is happy with it. Mr. Bell asked if there were any further concerns from the Board, there were none.

Mr. Straub made a motion to accept the Findings Statement, as amended. The motion was seconded by Mr. Gunn and the motion carried unanimously. FINDINGS STATEMENT ACCEPTED. Ms. Livigni said she did hear from Greg Bolner, he reviewed the document and he was satisfied.

**ANGELO FERRI** – Discussion and request for grading use permit due to County construction project on Noxon Road.

Mr. John Bodendorf of Hudson Land Design appeared before the board. Also present was Angelo Ferri.

Mr. Bodendorf said they haven't been before the board in quite some time for the subdivision because they are waiting on the sewer. He said hopefully it will happen sooner than later and they will be back to finish up that process. Mr. Bodendorf said in the meantime they have been in constant communication with the County as they progress with their plans to realign Noxon Road. He said they recently learned that the work they are doing on this property alone is going to result in a surplus of about 3,400 cubic yards of material. He said the Ferris would like to retain that material. He said they would like the surplus of material from one side deposited onto the other side. He said they haven't worked out exactly how that will work with their contract and they have a couple of ideas on how to grade it. He said he they will probably need a grading permit at some point. Mr. Bodendorf said this was located on Noxon Road, if you go from H.O. Penn going toward the Taconic, they are the next property. Mr. Ferri explained he owns both sides of Noxon Road, one tax parcel. He said the county approached him about purchasing land for widening the road, they have to purchase easements for building the shoulders and through their process they came up with 3,400 yards of material they had to take out from the upper side of the road so Mr. Ferri said he told the County if you are going to take out from the upper side of the road he would like it placed on the lower side. Mr. Ferri said they couldn't put that in their documents because he had to get approval from the town so that the county knows it is an allowable use for the town. Mr. Ferri said he was asking the County to let them do that and the County said he needed town approval and part of that process is, on the lower side they are enlarging the shoulders anyway, so they are already going to be working on that side and Mr. Ferri said when they are making shoulders, extend the soil further out. He said it's not like a big stock pile, they were asking the County to deposit all along that side.

Mr. Ferri said it's conducive to it because the ground slopes down there anyway. Mr. Gunn said they are not hauling, they are just moving it from one side to the other. Mr. Ferri said that's what he is asking them to do. Mr. Bell added and they are agreeable to it, they are saying you need a permit from the town to do it. Mr. Ferri said he knows that somewhere down the road they may need a grading permit to show the board how more specifically they want the county to do it.

Mr. Ferri said he doesn't envision clearing because the County has to clear to do their work. Mr. Bodendorf said he didn't prepare a grading plan yet, but he did do enough homework to know that they can grade it out and have less than an acre of disturbance to avoid the SWPPP requirement. Ms. Livigni said she asked Mr. Ferri to speak to the Board, this is something she

could handle administratively because it's 3,400 yards and that's a lot of fill and she said she didn't want the Board to not be aware of it. She said they will have to come in for the grading permit process but she wanted to get them in here so they could talk to the County and say the town is good with this. Ms. Livigni said whenever they are ready they can submit and it will probably be a "not to exceed" amount because it could shift. Maybe a detail to show how they would end it, and asked if the board thought that was sufficient. Mr. Bodendorf said he could do a section that would show that and the slope from the road level. Mr. Artus said the plan should show the grading, some cross-sections and follow all of the requirements of the Special Use Permit. The Board decided the next step would be a plan and an application. Ms. Livigni said come in with a little more and that way if it is a little less.

**REQUEST FOR RE-APPROVALS:**

**SLEIGHT FARM SUBDIVISION PHASES V AND VI**

Mr. Gunn made a motion to grant re-approvals to Sleigh Farm Phase V & VI, seconded by Mr. Straub and the motion carried unanimously. RE-APPROVAL PHASE V AND VI

Mr. Straub made a motion to adjourn the meeting at 7:50 p.m., seconded by Mr. Gunn and the motion carried. MEETING ADJOURNED.

Respectfully Submitted

Eileen Mang  
Planning Board Secretary