

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday, August 21, 2014. Chairman Stacy Olyha called the meeting to order at 7:00 PM. Board members Robert Straub, John Gunn, Dennis Rosenfeld, Frank Sforza, Mark Komorsky, Joe Zeidan and Tony Brenner were present. Also present was Wanda Livigni, Administrator of Public Works, Water Artus of Stormwater Management Consultants, Ron Blass of VanDeWater & VanDeWater and Greg Bolner of Clark Patterson Lee.

Mr. Gunn made a motion to accept the minutes of July 18, 2014 seconded by Mr. Straub and the motion carried with Mr. Sforza abstaining.

Mr. Sforza said he did not get his minutes. The remaining board all stated they received their packet which did include the minutes. He said he checked his e-mail several times during the week. Ms. Olyha said her packet arrived in her mailbox at 12:39 pm on Wednesday. Ms. Livigni said she would check with the IT guy to make sure there wasn't a problem.

### **REFERRALS FROM TOWN BOARD FOR DISCUSSION AND/OR COMMENT**

#### **LOCAL LAW OF THE TOWN OF LAGRANGE AMENDING PROVISIONS OF CHAPTER 240 "ZONING" OF THE LAGRANGE TOWN CODE**

Mr. Blass said any amendment of the town zoning law must be referred to the Planning Board for review and report back by the board if it wishes to give a report or comments. He said the board is under no obligation to do so. He said this is just a mandatory referral process as part of the legislative process and if there is any questions or comments now is the time. Ms. Olyha asked the board for comments. Mr. Gunn said no, he didn't read it yet. Mr. Straub said he reviewed them quickly and didn't see anything significant and asked if the board gets to vote on it. Mr. Olyha replied no. She said there is a public hearing on September 10<sup>th</sup> where comments can go into the public hearing and after that the Town Board decides what they are going to do with the local law. Mr. Blass said the Town Board votes on the local law but the Planning Board can give whatever input it wishes either as a board or individually at the public hearing or through written comments. Mr. Blass said under the legislative process this is the chance the Planning Board has to discuss and to potentially comment on the legislation. Ms. Livigni said in all fairness the board did just get it, it's a big document. Ms. Olyha said what they have done in the past is the PB members have reviewed it, they send her all their comments and she makes a list of the comments compiled so there's no duplicates and then send it to the Town Board. Mr. Blass said it's a good idea and should be done in advance of September 10<sup>th</sup>.

The Board decided on September 2<sup>nd</sup> to give any comments to Stacy for her to compile a list for the Town Board.

### **PUBLIC HEARINGS:**

**DALEY FARM DEVELOPMENT** – Proposed subdivision and site plan located between Titusville Road and Colleen Court containing 233.36 acres (Grid No. 6360-03-081270, 099220, 22931010)

Ms. Livigni said we are still waiting on the developer.

Ms. Olyha opened the public hearing. There was no comment. Mr. Gunn made a motion to adjourn the public hearing to September 18<sup>th</sup>, seconded by Mr. Straub and the motion carried unanimously. PUBLIC HEARING ADJOURNED

**LITTLE LAMB DAYCARE** – Proposed amended site plan located on Titusville Road containing 9.01 acres (Grid No. 6360-03-109390)

Ms. Sophia Pertesis, applicant, appeared before the board. She said she is moving her home daycare to Titusville Plaza and she is here to have the outdoor playground approved. She said construction is finished indoors and they are waiting to start their outdoor play area. She said there will be 12 children outside in the play area at one time. She said it is in the back toward the non-residential part of the plaza, next to the Rail Trail in a contained play ground area.

Ms. Olyha declared the public hearing opened and asked for public comment. Mr. Tim Robinson said he lived behind Titusville Plaza, and said he is concerned about noise, extra traffic and asked about age groups of the children in the daycare. Ms. Pertesis said the children are from 6 weeks to 5 years old and Mr. Robinson asked hours of business. She said they open at 7:00 and close at 5:30 Mon-Fri.

Mr. Robinson said he said the dumpster next to his property wasn't supposed to be there. He said it's about 40 feet from his house and was concerned about the smell of diapers.

Ms. Olyha said the applicant will respond in writing to his concerns. Ms. Livigni said there is some time sensitivity to this and asked the board if Ms. Pertesis could listen to the complaint and respond verbally. Ms. Olyha said ok, but that she will still have to respond in writing.

Ms. Pertesis said she had no problem bringing her garbage over to another garbage bin which is on the house on the other side of Mr. Robinson. Mr. Robinson said that dumpster was never supposed to be there. Mr. Robinson said all the noise will bounce off that building. Ms. Livigni asked Mr. Robinson to show her his property on the map. Ms. Livigni said she saw there were 2 dumpster locations and asked if the landlord and Ms. Pertesis had any agreement as to which dumpster she was to use. Ms. Pertesis said no and Ms. Livigni asked her if was possible if she would use the dumpster that was further away. Ms. Livigni said she looked at the approved site plan and seemed to recall there being 2 in that general vicinity. Mr. Zeidan asked wouldn't the dumpster be a landlord situation and not Ms. Pertesis'. Ms. Livigni said this is an amended site plan. Ms. Olyha said yes, this could be a condition that the landlord would have to do prior to them moving in. Ms. Livigni said that is why she pointed out the 2 so maybe the diapers could be put in the furthest one.

Ms. Pertesis repeated she had no problem putting the diapers in the dumpster she has been using for years. Ms. Livigni said they are the original 2 approved locations for the dumpsters and you have to keep in mind that if this site does get fully utilized at some point, they would be the hope because it's better for the town has a whole to have that fully utilized. She said there is a dance studio under construction next to her play area.

The Board suggested moving the dumpsters to the center. Ms. Pertesis said she didn't think that was a problem. Ms. Olyha asked about the fence, and if there were any requirements for playgrounds. She asked if they had to be slotted. Ms. Livigni said they fall under the state's standards no matter what our code says. Ms. Olyha asked does the state require slats. Ms. Pertesis said she decided not to use a chain link fence because it looks like a dog run so she is putting up a completely closed fence. Ms. Olyha said which will help with sound also.

Mr. Andy Daubman of 18\_\_\_\_\_. He said he wasn't sure if he was in favor or opposed to this but from he heard here is they are consolidating a facility and moving it. He said this is a great thing for the safety of the children. He said he thinks it's a good idea. He said he wouldn't worry about the noise and said he found it very beautiful to hear kids having a good time. He said he supported the project.

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

Mr. Gunn asked how do we enforce the movement of the dumpsters and Ms. Olyha said it will be in the final. Ms. Livigni pointed out other wishes in Mr. Artus' comment letter which included moving the fence 1 foot out, adding stop sign details. She said Ken issued a letter said less parking was ok for now but if he needs to revisit that he could at a later date if more tenants move in. Ms. Olyha went back to Mr. Artus' comment letter concerning vegetation and debris in the inlet area to the pond and it needs to be cleaned up before anything can be done. Mr. Artus said that would be the landlord and would be a condition. He said it definitely needs to be cleaned up. Ms. Olyha said that and moving the dumpster would be a part of it and Mr. Artus said he has to add a few things. Ms. Olyha said Mr. Artus wants to do a follow up inspection which is on the landlord also, so the only part for the applicant is the moving of the fence. Ms. Livigni said this all goes with the site plan not the person, so whoever does it we don't care but somebody has to do it. Mr. Artus also said to revise the fence on the plan to show the stockade fence. Mr. Straub asked about the drain clean up and if it would be periodic. Mr. Artus said he would be speaking to Wanda and once fall hits he is going to want them to actually get into the basin itself. Right now we just need water to get into that basin. Ms. Olyha said the last item is that the hours of the operation be added to the plan. It's a note that can be put on there. Ms. Olyha went over the items once again that needed to be on the plan. Mr. Artus said he would revise his memo first thing in the morning to add the dumpster issue, and the fence detail because the memo will be a condition of final. Ms. Olyha said we can make this a conditional final and once either Wanda or Walter sees everything is done then that part of the condition is fine and the 2<sup>nd</sup> part of the condition is the owner, which is the vegetation, the clean out and moving the dumpster.

Mr. Gunn said if the Board grants a conditional approval it means you may proceed at your risk. Ms. Livigni said there is the written component of the public hearing responses. She said the Board is the one who actually decides if the responses are satisfactory, nobody else. She said she believed the applicant has made an effort to answer those responses verbally, and she has to back in up in writing. Ms. Olyha said we've done it before where it is ok'd through Ms. Livigni's office. Ms. Livigni asked the board if they were comfortable with that and the board had no objection. Ms. Olyha also asked the board if they were comfortable with the responses from Ms. Pertesis and they all agreed they were. Mr. Zeidan asked about the State and Ms. Olyha said the state has regulations over daycares. Even if our code said we wanted a stockade fence and the State said no you can't have one, our code gets overridden by the state because they are higher than us. Mr. Zeidan asked what about the dumpster, and asked would it be closer to the playground. Ms. Olyha said there is already a dumpster there, they are just moving the 2<sup>nd</sup> one next to it.

Mr. Gunn made a motion to deem the project as 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 incorporated on the plans and/or in the reports. The motion

was seconded by Mr. Brenner. Ms. Olyha said she will add to that to say "with the items that we discussed in mitigating this project"

John Gunn	Aye
Bob Straub	Aye
Dennis Rosenfeld	Aye
Tony Brenner	Aye
Frank Sforza	Aye
Joe Zeidan	Aye
Stacy Olyha	Aye

The motion carried. **NEGATIVE DECLARATION**

Mr. Artus said he did prepare a resolution but he had to revise his comment letter to reflect the addition of moving the dumpster, a new fence detail, and providing written components to the public hearing and along with his other 6 or 7 comments, he recommended the board conditional amended site plan approval. The applicant was requested to bring the actual affidavit from the newspaper. Ms. Olyha said the written comments go to the Planning Department and Wanda can check over the written comments to reflect exactly what the board heard here and the Board agreed.

Mr. Gunn made a motion to grant amended site plan approval, seconded by Mr. Brenner and the motion carried **AMENDED SITE PLAN APPROVAL**.

### **REQUEST FOR RECOMMENDATION FOR RE-APPROVAL**

**ROLLING MEADOWS SUBDIVISION IS SEEKING THE PLANNING BOARD REQUEST THE TOWN BOARD FOR A RECOMMENDATION TO GRANT A 7<sup>th</sup> RE-APPROVAL**

Ms. Olyha said according to their letter they are still in negotiations for municipal sewer. Ms. Livigni said that's not really accurate, and added she thought in these economic times they are challenged to finance the project.

Mr. Gunn asked how many re-approvals do we go up to now? Ms. Olyha said once the economic down turn occurred there became no limit. She said they are re-approvals now and there are fees for it as opposed to being a time extension. Ms. Livigni said they have the obligation to prove every year that they still meet all the requirements as per the law with the DEC, DOH, DOT MS4, etc. Ms. Livigni said the Planning Board still has the power to deny it but as part of the process it goes to the Town Board for a recommendation and input to assist the Planning Board. Mr. Gunn said he thought there was a timeline back in 2008, but apparently not. Mr. Brenner said so it's just indefinite? Ms. Livigni said if they can still meet it and Ms. Olyha said and they have to ask. Ms. Olyha said the board is supposed to make sure nothing has changed with the DEC, etc. so if nothing has changed then it should be ok. Ms. Livigni said yes, to make sure the project is still viable. Mr. Straub said therefore we have no legal reason to refuse and Ms. Olyha said no. Ms. Olyha said it's just like going through SEQR, you have to make sure everything matches. Ms. Livigni said if there was something that was glaring that had changed, that would be something for the board to consider. Mr. Straub made a motion to send a recommendation to the Town Board to grant Rolling Meadows their 7<sup>th</sup> re-approval, seconded by Mr. Gunn and the motion carried.

LAKE RIDGE SUBDIVISION IS SEEKING THE PLANNING BOARD REQUEST THE TOWN BOARD FOR A RECOMMENDATION TO GRANT A 7<sup>TH</sup> DAY RE-APPROVAL.

The Board discussed this project and whether anything had changed on this project. Mr. Rosenfeld said if nothing has changed the Board should send a recommendation to the Town Board requesting a 7<sup>th</sup> re-approval Mr. Zeidan asked if it was denied would they have to go through the whole process again. Ms. Olyha said they would have to start with the application process. She said they can come in with the exact same plan but they would have to change whatever was different. Mr. Zeidan said he knows sooner or later there's got to be a breaking point. The Board continued to discuss the topic of both subdivisions.

Mr. Brenner expressed an opinion concerning the projects getting re-approval after re-approval and they are not paying taxes on it. Mr. Straub asked Mr. Artus about the water drainage and changing a lot of specifications keeping water contained on lots these days and sites, and asked if anything has changed significantly there that we should be concerned about. Mr. Artus said if you had coverage back in 2007 or 2008 and you've maintained paying the NYS DEC yearly your coverage is still valid and if you don't pay DEC you lose your coverage and you have to start over. If they lost their coverage for lack of payment. Mr. Zeidan asked if the board should ask the applicants to come to the meeting to explain themselves. Ms. Olyha said we could do that. Ms. Olyha referred to the letter from Rolling Meadows that was sent in by the applicant (attached) and read it. Mr. Brenner asked how many years are we going to let this go. Ms. Olyha said if they want to sell those lots they have to file the map so since they haven't sold any lots, that why they are not filing the map. She said they are still paying on that entire lot. Mr. Brenner continued to question the time frame. Mr. Komorsky said almost sounds like they are land banking, and added it's a very inexpensive way to wait for the economy to turn around.

Ms. Livigni said this Board has the right to deny the re-approval. Mr. Brenner asked if there were any others that were on 7 years. Mr. Gunn said there are probably 5 after this that could trickle through. The Board continued to discuss the issue. Ms. Livigni suggested to the Board when the letter to the Town Board is written, included in it should be the Planning Board's concerning the lack of a sunset to the re-approvals as well as the tax implications to the town. Ms. Olyha asked when do they pay their per lot fee, Mr. Brenner said the Rec Fees. Mr. Gunn said this does sound like land banking after a certain period of time. Mr. Gunn said it would be nice to have the applicant come in and see the Board. Mr. Brenner asked what other town can you do this in. Ms. Livigni said that is why the town came up this was to try and make sure the projects were still fresh and viable, collect re-approval fees. She talked about town taxes and school taxes which were a lot larger. Ms. Olyha said there is no person using that school anyway because there is no house there. Mr. Gunn said we collect fees but we really don't revisit the project and added he hasn't seem somebody stand in front of the board in 5 years. Ms. Olyha asked the board to consider if anything within the projects had changed within the last 7 years. Mr. Gunn said he saw that perspective but he also saw Mr. Komorsky's perspective that this is an applicant, a developer, who hasn't developed anything in 7 years and said wouldn't it be nice to see the applicants for an update. Mr. Artus said he believed New York State law changed in this respect, and suggested it be verified with Ron Blass. He said there used to be a limit but there are no limits to the extensions. Mr. Artus said we went above and beyond other towns by our process. Mr. Komorsky asked if the state law trumps the town and Ms. Olyha said the state law is law unless we want to make it stricter which we did. Ms. Olyha said so the state does not trump us on that one.

Mr. Rosenfeld made a motion to that affect, seconded by Mr. Straub and the motion carried unanimously. Mr. Gunn said we may stricter than the state in word but in action we are not. Mr.

Komorsky asked what the fee was the town charged and Ms. Livigni said \$50 a lot. Ms. Livigni said if she believes correctly, the Board wants the letter to the Board to include the Planning Board's concerns to the Town Board as well has the applicants be present at the next Planning Board meeting. The Board agreed that the applicant should be present at the next meeting.

Mr. Straub expressed his opinion concerning land banking and said so be it, shouldn't he be allowed to make money if he wants and execute the plan when he wants. This is democracy and said he didn't get it. Mr. Straub said we don't have to take this guy and chop him and Mr. Gunn said we don't have to shop him, just have them come in to talk to the Board. Mr. Straub said that's ok.

The Board agreed to send a letter to the Town Board requesting a recommendation for a 7<sup>th</sup> re-approval and included in that memo should be the concerns the Planning Board regarding re-approval limitations and tax benefit ramifications.

Mr. Gunn made a motion to adjourn the meeting at 8:00 PM. seconded by Mr. Straub and the motion carried unanimously MEETING ADJOURNED

Respectfully Submitted

Eileen Mang  
Planning Board Secretary

DRAFT

**Lawrence J. Paggi, P.E., P.C.**

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August 5, 2014

Mr. Stacy Olyha, Chairman  
Town of LaGrange Planning Board  
c/o Eileen Mang, Planning Board Secretary  
120 Stringham Road  
LaGrangeville, New York 12540

Re: Lake Ridge Estates  
Macghee Road  
Tax Parcels: 6260-04-755037 & 6260-04-700066

Dear Chairman Olyha and Members of the Planning Board:

I am hereby requesting, on behalf of my client, that the above referenced project be placed on the next available Planning Board agenda for consideration of granting a new conditional final subdivision approval. The Lake Ridge Estates Subdivision originally received conditional final approval on October 16, 2007. The subdivision was reapproved on September 15, 2009, September 21, 2010, September 20, 2011, September 20, 2012 and September 19, 2013.

This request for a new approval is being made due to the current economic conditions that have prevented Mr. Bettina from moving forward to complete the conditions of approval within the one year time allotted in the current approval.

The plans have not been changed or modified, and is the same plan set that was originally approved by the planning board on October 16, 2007.

The subdivision, Lake Ridge Estates, Tax Parcel No.'s 6260-04-700066 & 6260-04-755037 is a 39.73 acre proposed twenty-four (24) lot residential subdivision located on the north side of Macghee Road, approximately 500 feet east of the intersection on Macghee Road with NYS Route 376 in the Town of LaGrange. The subdivision will be served by municipal water from the Town of LaGrange's Southwest Water District. The lots will each have individual on-site septic systems. As part of the erosion control plan for the project, road drainage will be conveyed to the existing drainage on NYS Route 376 (NYSDOT).

The subdivision has Dutchess County Health Department approval for sewage disposal and water supply facilities and is covered by GP-0-10-001 for stormwater discharges from construction activity. The project also received conceptual approval from the NYSDOT to discharge stormwater runoff from the site into the State's storm water system.

Please do not hesitate to contact our office if you have any questions or if additional information is required.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence J. Paggi". The signature is written in a cursive style with a large initial "L" and "P".

Lawrence J. Paggi, P.E.  
President

cc: Vincent Bettina  
Richard Cantor, Esq.

ABD DUTCHESS LLC

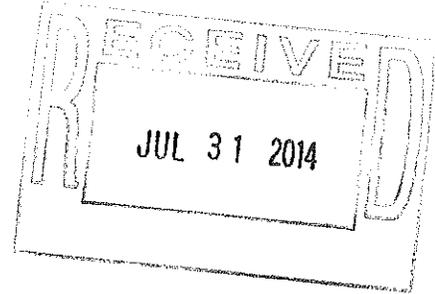
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August 1, 2014

Ms. Stacy Olyha, Planning Board Chairman  
and LaGrange Planning Board Members  
Town Of LaGrange  
120 Stringham Road  
LaGrangeville NY 12540



RE: Rolling Meadows Subdivision

Dear Chairman Olyha and LaGrange Planning Board Members:

The project has previously been reviewed by the Board and a 6<sup>th</sup> conditional final subdivision re-approval was granted on September 19, 2013 for a period of 180 days, expiring on March 18, 2014. Two additional 90 days extensions were granted by the Board during their regular meetings held on Feb 20, 2014 and June 19, 2014, due to expire on Sept 19, 2014.

We are currently in front of the Planning Board and need to address items raised by the Town Board in their letter to the Planning Board dated 1/6/10. One of the items required is the annexation of the Rolling Meadows subdivision to an existing municipal sewer district or the creation of a new district. This item has not been resolved as of today.

In accordance with Section 203-11 A (2) I also advise the Board that:

(a) All permits and approvals issued in conjunction with the project are valid and will be so through the term of the extension (DOH approval valid until 2019, NYSDOT and Storm water SPEDS indefinite). ACOE jurisdictional determination was valid until 2012 and the authorized work associated with this permit for wetland fill has been completed. No further authorization is required from the ACOE for this project. In the future, should additional wetland fill will be required, further authorization from ACOE will be necessary;

(b) That there has been no change in any relevant statute, rule or regulation that would affect the subdivision since its last re-approval;

(c) That there have been no intervening changes in the physical or environmental setting of the project land or nearby lands that would affect the project, and;

(d) That no work has been performed on or near the subdivision for the development of the project.

We wanted to thank the Board for their cooperation and for granting us the previous re-approval, and request the Board to continue their cooperation by granting us an additional 7<sup>th</sup> re-approval to the conditional final subdivision approval.

Sincerely,

Dan Gueron, President