

A regular meeting of the Town of Lagrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Thursday, November 20, 2014 at 7:00 PM. Board members Robert Straub, John Gunn, Stacy Olyha, Tony Brenner, Dennis Rosenfeld, Marc Kormorsky, Frank Sforza and Joe Zeidan were present. Also present was Wanda Livigni, Administrator of Planning & Public Works, Greg Bolner of CPL, Walter Artus of SMC and Ron Blass from VanDeWater & VanDeWater.

Mr. Rosenfeld made a motion to accept the minutes of October 16, 2014, seconded by Mr. Straub and the motion carried unanimously. MINUTES ACCEPTED

PUBLIC HEARING:

DALEY FARMS DEVELOPMENT – Proposed subdivision and site plan located between Titusville Road and Colleen Court containing 233.36 acres (Grid No. 6360-08-1270, 099220, 229310); adjournment

Ms. Olyha opened the public hearing, there were no comments. Ms. Olyha said the applicant is asking for an adjournment until February 19, 2015 and asked can the board do that or can they keep it open each month. Ms. Livigni said her preference would be to keep it on the agenda, because there are some concerned residents there. Ms. Livigni asked Ms. Livigni at what point would they need to re-circulate. Mr. Blass said with a concern like that the board might want to adjourn with the condition that they re-advertise for the February meeting so the board agreed.

Mr. Zeidan made a motion to adjourn the public hearing to February 19, 2015, seconded by Mr. Brenner and the motion carried unanimously. PUBLIC HEARING ADJOURNED

LAKE RIDGE SUBDIVISION – Discussion regarding re-approval

Mr. Larry Paggi appeared. Ms. Olyha said last month the applicant was asked to show and nobody appeared before the board to represent Lake Ridge, and Mr. Paggi has asked if he could speak tonight.

Mr. Paggi said they were not the engineers for the project; they became involved recently within the last year or 2. He offered the board his apology. He said he understand that by them not showing up it was perceived as a snub and he said that was the furthest thing from his mind. He said he would never do something like that to a board. He took complete responsibility for not showing up, it was his directive to the applicant to not come to the board until they had the conditions of the letter addressed. He said again, not being the original engineer of the project it took a little bit of doing on his part to put some of the letters together. He said he believes the fees were paid and he is here to request on behalf of the applicant that this board consider re-approving the project. Ms. Olyha asked Mr. Blass can they over turn what the board said last month. Mr. Blass said at the September 18th meeting the board actually granted a re-approval for 6 months subject to a few conditions one of which was a post condition that the

applicant show up at the October meeting so when he didn't show up at that meeting, the failure of that condition resulted in an extinguishment of the September 18th re-approval resolution. He said the cleanest way to go about this is to hear the applicant with respect to the re-approval again this evening and if the board is interested in re-approving then entertain his resolution that he provided earlier in the afternoon. He said it's a resolution that as written has the same conditions as the September 18th re-approval resolution and the business before the board tonight is whether or not to re-approve it in accordance with resolution presented today. Ms. Olyha asked the board if there were any questions for Mr. Paggi.

Mr. Rosenfeld asked the reason nobody came last month. Mr. Paggi said it was his recommendation and his failure to understand that it was imperative they be here and said he felt it would be wasting the Board's time because they didn't have the conditions of the letter in hand at that time. Mr. Paggi said he mis-read the resolution as meaning they had 90 days but the way the letter was actually written was they did have 90 days but they also had to appear at that last meeting and he didn't understand it correctly. He said it was his fault.

Mr. Sforza said we have re-approved this a number of times and the issue is a lot of the developers keep doing this. He said the developer that came last month explained to the board in detail his problems and Mr. Sforza asked Mr. Paggi what is the delay with this project. Mr. Paggi replied by saying there is actually an alternative plan for this project, which is for a seniors project in the area independent living, individual homes. He said the Town has adopted an alternative senior housing overlay zone and the anticipation is that this project may be coming forward along those lines; part of that zone requires that in order to satisfy certain requirements for open area, if there was a prior approval, that it be maintained valid. He said it is certainly in the applicant's interest to maintain that, however it is a marketing issue as well and if the alternative senior housing does not work out he intends to build the subdivision. He said right now the focus is on a different project that requires that his approval remain valid. Mr. Paggi said it sounds like a different project from the one the board is re-approving, in which case it is kind of a moot point. Mr. Paggi said it's not a moot point because the approval of this project is imperative to the new project, the way that the zoning is written.

Ms. Livigni said 3 or 4 years ago the property owner Mr. Bettina approached the Town Board about senior housing and in meetings with a few members of the Town Board, staff, herself and Ken McLaughlin, and he was able to get a local law introduced called alternate senior housing and one of the requirements for the density is based upon a standard subdivision. Mr. Paggi said yes, it's based upon an existing approval. Ms. Livigni said thus far there has not been an application to the town to any board or any place for this alternate senior housing but they are still trying to pursue it.

Ms. Olyha asked the board's opinion. Mr. Straub made a motion to grant re-approval, seconded by Mr. Brenner and Ms. Olyha polled the Board.

John Gunn Aye
Bob Straub aye

Dennis Rosenfeld aye
Tony Brenner aye
Frank Sforza aye
Stacy Olyha aye
Joe Zeidan aye

Mr. Blass said the re-approval being granted tonight is on the same conditions as were stated in the resolution of September 18th.

Mr. Paggi asked for a copy of the resolution and added that he believed they have complied with all of the conditions. Ms. Livigni said there was a letter in October from Mr. Paggi's office stating there was no need for an Army Corp because it is not necessary. She said the other missing document pertained to offers of cession and the legal documents because at this time they are not actually looking to pursue this subdivision and in the event they are ready to build something they will furnish that, The DOT, they have conceptual and the Highway Superintendent issued a letter. Ms. Livigni said there was actually a response to that, it's up to the board if that's acceptable. She said it was the day after the meeting. Mr. Paggi said and that was the purpose of the delay. Ms. Olyha said and all of those conditions were reviewed in house once they came in and Ms Livigni replied yes. Mr. Blass said there are 2 conditions that the board attached last time, one being that an irrevocable offer of cession with proposed deeds and easements related to the subdivision design that was approved 7 years ago be submitted within 90 days, also a condition that an up-to-date title search be done to show that the interest in the property would relate to clear title. He said the applicant has requested in his letter of October 20th and is probably to ask for again is that those 2 conditions not be imposed under the circumstances because the ultimate desire is not to build the project as approved anyway. Mr. Blass said the board might want to consider granting the re-re-approval without those 2 conditions E & F that are a part of the current resolution. Ms. Olyha said she recalled that those 2 conditions came down as a recommendation from the Town Board. Ms. Livigni said it was their recommendation but it the Planning Board's to take action. Mr. Blass said they are not binding on the Board. Mr. Blass said the applicant is basically requesting that those 2 conditions not be imposed under the circumstances because they would be ineffective and the argument is costs would be incurred for lawyers and title companies for a project they don't want to build anyway.

Mr. Paggi said if we come to build that subdivision, we would provide those, we are just asking they be continued as a condition of approval. Ms. Olyha said she could understand the irrevocable offer but why can't there be a title search. Mr. Blass said the purpose of a title search would be to confirm that title is clear today in relation to the offer of cession. Ms. Olyha said so they are tied into each other.

Ms. Olyha asked Bob if he wanted to amend his motion and Mr. Straub said he would amend it to remove E & F, and Ms. Olyha added but leave it attached to the final re-approval. Ms. Olyha said it comes off the 90 days but they still have to do it under the final approval. Ms. Livigni asked Mr. Blass to re-draft it and he said he could, but it's

never going to go away. The Board agreed with granting the re-approval. Mr. Paggi thanked the Board.

POWERPLANT MOTOR SPORTS SPECIAL USE PERMIT – Proposed Special Use Permit located on Industry Street containing 2.01 acres (Grid No. 6361-03-162267)

There was no one present for this application. Ms. Livigni spoke. She said in October the Planning Board had given a deadline to this application and that deadline was not met which was the previous Thursday. Ms. Olyha said the board was supposed to witness a test the week of the 27th which we were never notified of, if it occurred at all and we also asked for the report of that test to be submitted by November 14th and nothing has come in. Ms. Olyha asked Mr. Blass for the Board's options.

Mr. Blass said at the October meeting, the applicant gave the board some written indication that he had retained an engineering firm for the purpose of doing the decibel reading examinations that the board requested and for that reason he asked that the matter be put over. He said at the October meeting, in anticipation that the applicant would be good to his word; the Board put it over to this meeting subject to the condition that these submissions would be made by a certain date which has come and passed. He said that development is sort of a mere image of what occurred following the September meeting of the board at which the applicant appeared without the information the board requested with respect to professional engineering assessment of the acoustics and decibel reading related to the operation of the dynamometer and information pertaining to the ability of the unit to be internally exhausted as another means of noise mitigation. Because that information was not available at the September meeting, the Board had him write a letter to the applicant on Sept. 22 putting in writing precisely what the board wanted and giving a deadline of one week before the October 16th meeting to provide this material. Mr. Blass said if we start at the beginning of the timeline and look forward to today, the applicant was given instruction and direction on September 22nd to give advanced submission of what the Planning Board wanted for the October meeting a week before, didn't attend the October meeting, asked for more time, more time was extended by the Board and it was granted upon the condition that the material be provided by November 14th and so no material has come in at all and the applicant is not here. So he is basically absent without leave and explanation. He said there seems to be a pattern that has developed. Mr. Blass said he thought there were 2 options for the board: they could discuss this evening whether to render a decision on the special permit application and create the reasons for doing so tonight after discussion and enter those decisions on the record as to either an approval or denial or it could consider closing the record and proceedings and adjourning the matter for one month for the drafting of a written decision on this matter, depending on how the discussion goes this evening. He said the core of the matter is the record has significant information to the affect that there may be a problem with the nature, level and quality and character of the noise that attens the operation of the machinery at this location. He said 240-71 page 3 of town code pertaining to special permits standards indicates one of the standards is whether or not the activity does create an annoying level of noise, fumes, smoke, etc inconsistent with the character of

the community. He said it is certainly a relevant standard and the way the law is written with respect to special permits, the failure to meet any one of the standards established for the issuance of a special permit is a legitimate basis for the denial of it. He said you don't have to fail more than once.

Ms. Olyha said she did a little research and it was exactly 1 year ago tomorrow that he came before the board the 1st time. She said the board had given him the condition that he meets the condition that was set before him in the court order by January, it was not done. In April he was sent a letter stating he did not meet the conditions and again given a deadline of May 31st which was not met, In June he came before the Board and said he didn't want to do that, he wanted to go forth and do alternative ideas because the court order, he said, was too costly. Ms. Olyha said the board said that's fine, you go find your alternatives and come back in July and again in July he didn't have anything and then we went to August and again we had one of a website but there was no explanation, no report on what all the numbers meant, then in September we gave him a deadline which was not met for October and he insisted he was going to have a professional do that and that deadline came and went too. No report was submitted on the 14th. Ms. Olyha said she felt the board was being danced upon. She said as a board can we really know what the affect is "operations and connection with any special use will not be offensive, particularly dangerous, destructive of property values and basic and environmental characteristics or detrimental to the public interest of the Town and not be more objectionable to nearby properties by reason of noise, fumes, vibrations, electromagnetic radiation and flashing of lights and similar nuisance conditions that would be the operations of any permitted use not requiring a special use permit". Ms. Olyha said it is her opinion that since we are not experts on noise and all the reports we asked for so they can be reviewed by our engineers have not been submitted and therefore we can't actually say except the noise we hear is accessible or the fumes or the vibrations. She said we have given him ample time to give us all the data which would help him if he truly wanted to obtain the special use permit. Ms. Olyha asked the board. Mr. Straub asked if anyone has had contact with this individual within the last month to know that he is not sick. Ms. Olyha said Eileen has been in contact and Ms. Livigni said Eileen has e-mailed him and in the past when Mr. Vitaj has been unable to attend either due to sickness, or a vacation, his attorney represented him which is also the property owner.

Mr. Straub said we could assume we are being ignored. Ms. Livigni said that would be the assumption. The Board agreed. Mr. Komorsky said he was under the impression that he is in another business as far as auto repair goes, besides the dynamometer business, and asked if this permit was strictly based on the dynamometer or is it based on mechanical repair as well. Ms. Livigni said the permit is for the work he does, it is not specific to the dynamometer. Ms. Livigni said the gentleman opened up his business technically illegally, he never had a use permit to operate there and it came to the attention of the Building Department that he was operating without a permit and the rest is what happened. If the Board was to deny the permit he would be shut down until such time that he applied for the permit again and at that time she didn't think it would come in front of the Board until all of the backup was there. It's merely a means of

trying to acknowledge the fact that there is an outstanding issue and it doesn't mean he can never exist there, it means he would not be able to operate until he did get the permit. Ms. Olyha said he could have 2 options with getting that permit, he could not use the dynamometer coming in and permitting and not have that in his shop anymore and be a regular shop mechanic or he could come in with all the data we've been asking for and go from there. Mr. Gunn said he thought he had another shop somewhere else. He said he thought the specialty of that shop was the dynamometer. Ms. Olyha said she had no idea and that was never mentioned.

Ms. Olyha said we have to have a findings statement and in this particular process, it is agreed that it is the noise and vibration that is the issue here and the board agreed and Mr. Straub added and no proof to justify or deny approval for a permit. Mr. Blass said if we are talking about a lack of material for the board to review you are either conditionally granting or denying the permit then we are on the ground of dismissing the application as opposed to denying the application. The Board agreed. Ms. Olyha said so if we dismiss the application that means that he is negligent in having a special use permit which means he has to start at ground zero anyway. Mr. Blass said yes, you would dismiss the application for failure of the applicant to cooperate with the requirements of the board in completing his application and making it capable of review. The dismissal would probably be with prejudice to having to come in and start over again. He said the Board's interest and the public's interest might be to make it clear that the affect of the dismissal is to shed light on the nature of the existing violation and consistent with the dismissal would theoretically be a recommendation to the enforcement agencies of the town to issue stop work orders and /or to prosecute the matter given the dismissal of the special permit application. Mr. Straub said he supports that position. Ms. Olyha asked if the board could do this tonight and Mr. Blass said if you are dismissing it there is no need to make findings for conditional approval or denial because you are not doing that and he said he didn't think there was any need to make a SEQR determination. We are just dismissing the matter without prejudice. Mr. Straub said he hates to see somebody shut down and to keep people employed and making a living but he has ignored our system, our laws and we have to protect our citizens as well who are involved in this.

Ms. Olyha said if we dismiss a stop work order will be issued and it will be up to the town Board and zoning officer as to whether to pursue legal action. Ms. Olyha polled the board:

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

Ms. Olyha asked Mr. Komorsky's opinion, even though he was not a voting member and Mr. Komorsky agreed with the entire board.

LANDS OF ARCOS SITE PLAN – Proposed site plan located on Rte. 82 containing 2.01 acres (Grid No. 6561-04-8281270 discussion concerning proceeding at their own risk for placing fill for sub base)

Mr. Bill Nemeth appeared before the board. Ms. Olyha said the packets included answers to the public comments from the public hearing as well as interested and involved agencies. She said her one comment is the reason why we have public hearings and send letters out asking for comments is if anything is brought to light, things can be changed. Ms. Olyha said in the applicant's comments he kept saying the Planning board has already decided that they like the plan, that might be that some of the members like the plan but it's not the Planning Board likes the plan, that is not an answer to a question asking about the pavement. She said it's already a done deal was not acceptable to her. She asked the board for further comments. Mr. Gunn referred to item 4 & 5 of CPL's comment letter. He talked about driveway cuts subject to NYSDOT approval; please provide documentation, no submittal made to the DOT and # 4 no submittal made to the DOH, or DEC. He asked is that waiting on us or what? Mr. Bolner said according to the applicant they indicated in their comment letter that they acknowledge that it is required and to keep the Planning Board involved in those but they had not made those submittals. Mr. Nemeth said when they get site plan approval; they will go on to the next step. Ms. Livigni said you will not get approval with them. Mr. Nemeth said if we can get the board to say OK. Ms. Olyha said don't we have to have that for SEQR? Mr. Gunn asked don't we have to have the road cut before we can approve it? Mr. Artus said you need a conceptual letter of approval from the DOT and DOH, you will need the approval. Ms. Olyha said with the SWPPP and SPDES. Mr. Artus said the reason the applicant is appearing this evening is to ask for the placement of fill sub base. Mr. Nemeth said too much time went by and that material is long gone, so there is no sense in asking for it.

Ms. Nemeth asked what are we going to do with the site plan? Ms. Olyha said we have to wait until all of this is in to Walter so that we can make a SEQR determination. Ms. Livigni said the thing for your engineer to do is to submit to DOT and to DOH and Mr. Nemeth said he knows that. Ms. Livigni said before you come back to the board why don't you do that because that could take time and could be held up with DOH for up to 6 months. Mr. Nemeth said they have already been in contact with the Board of Health. Mr. Bolner said his engineer said that had not made the submittal of the plans. Ms. Livigni said the key is to get them submitted to DOH and to DOT; DOT is only looking at where the entranceway is., they are not concerned about the site. He said he went over that with Mr. Walters. Ms. Livigni said Mr. Walters is not the one who issues this, so formal submission to both will get you a lot closer than you are today. She said it looks like there are minimal comments on the SWPPP from Greg. Walter had some on his. Ms. Livigni said get that into DOH because that's going to be the longest hold up because the rest can be resolved. Mr. Nemeth asked about the site plan, and asked if there was a problem. Mr. Artus said no, you just need to move forward. Ms. Olyha said

you can't assume everything is a done deal when you are writing your comments. He said he thought the board stated they liked the project, and Ms. Olyha said we said you could proceed with the plan before you but if something comes to light plans can change. Mr. Artus said there are no trees on the site and he said they have satisfied all of his SEQR comments so we could issue a Neg Dec. and Ms. Livigni said which will get them through DOH.

Mr. Rosenfeld 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. Zeidan and carried unanimously.
NEGATIVE DECLARATION.

FREEDOM PLAINS PRESBYTERIAN CHURCH – Proposed amended site plan and Special Use Permit located on Rte. 55 and Stringham Road (Grid No. 6460-02-650904); 710874); consideration of granting a SEQR determination, discussion concerning proceeding at their own risk.

Mr. Mark Day appeared before the Board. Ms. Olyha asked wasn't Stringham Road cut off at their end already? Ms. Livigni said there were people driving on it yesterday. Ms. Olyha said from the County letter for Blandings turtles they were going to put notes on the plan and Mr. Day replied yes. Ms. Olyha asked about the SWPPP and drainage plans and Ms. Livigni said they have their MS4 Acceptance Form. Ms. Olyha said and you are connecting to the water. Mr. Bolner said we need to get the process of the sprinkler system going. Mr. Day said we have a firm that designed it. Ms. Livigni said the town is going out to test the hydrant. Mr. Day said they received comments from Dave McDougal just 15 minutes ago.

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. Zeidan and carried unanimously.
NEGATIVE DECLARATION.

Ms. Livigni said she reviewed DOH's comment letter on Mark's cell phone. She said as you know Callaruso is out there, their site is currently the church's property where the bulk of the site improvements would be. A concern she would have is timing. The church has an agreement with Carraruso so they will be doing the site work, or at least the bulk of it for them. She said Callaruso is getting close to wrapping up the DOT project and she really didn't see any good reason why that whole site should be restored to be ripped back open again. She said this applicant has his SWPPP and Neg Dec and the water main she has been working very closely with Dave MacDougal in trying to get the septic approved. She urged the Board to consider having them proceed at their own risk in light of the conditions and what's going on out there. Mr.

Gunn said so to that end they don't have to restore the property back and would leave it as a construction site to be when the snow goes away. Mr. Day say they want to put in the infrastructure for the storm water system and we are not going to do the septic until the Board of Health signs off the water line, and they were approved to extend which Callaruso has done, they have extended it out of Stringham Road's right of way as it currently stands. He said that work can continue until BOH signs off on it. He said all the other work they would like to do as much as they can. Ms. Olyha said for environmental reasons, doing it this time of year we know there won't be any Blandings Turtles out there because they are hibernating. Ms. Livigni said if it makes the Board any more comfortable, she works pretty closely with this site and if the Board was comfortable with allowing them to proceed at their own risk with the condition of them not doing the septic or water main until she received BOH confirmation, she would be comfortable allowing them to do it. She said they can do the water main work without Planning Board approval because we have an agreement between the church and the town. She said it's just makes good construction sense to do it this way and urged the Board to consider that.

Mr. Straub said he was in favor, as was John Gunn and Mr. Zeidan. The Board agreed to allow the applicant to proceed at their own risk.

LAGRANGE CREAMERY AMENDED SITE PLAN AND SPECIAL USE PERMIT –

Proposed amended site plan and special use permit located on Rte. 55 (Grid No. 6450-02-715925); discussion concerning proceeding at their own risk for fill

Ms. Olyha said last month a letter was sent to the applicant in error and there was no Neg Dec issued because we have not completed the SEQR review yet. Ms. Olyha said according to Walter's memo there are some outstanding issues before we can review for SEQR. He said he just received a copy of the full EAF today. Ms. Livigni said in addition to that there is still the SWPPP. Mr. Angus said there hasn't been a SWPPP submitted yet. Mr. Bill Rohde, Robert Ferris and Katie Ferris were present. Mr. Rohde said he got a copy of the County letter and said he thought it would change the building all around and asked the board on their thoughts concerning that. He said the front of the building is supposed to be in line with the Realty office and Kelly's and the County wants us to push it out in front so buildings are blocked in either direction. Mr. Rohde asked the Board if they wanted changing the building and everything else. Ms. Livigni said it was up to this board. Ms. Olyha said there is a provision if in the Board's opinion it matches the rest of the site lines or the rest of the neighborhood, we can do that kind of thing. She said we don't have to follow code strictly in that section if it is going to stand out, if we think the plan matches the character of the neighborhood then we can do that and we have to have good reason, which she said what Mr. Rohde just said in his comments that it matches the building line of the other 2 buildings. Mr. Rohde said it gives a farm look, etc. Mr. Ferris said there will be a tractor in front and he didn't want the kids sitting on it and being too close to Rte. 55. He said that would be a safety issue there. Mr. Ferris said they are putting a split rail fence to frame the building, it won't look right if it is sitting right on top of the fence either.

MS. Olyha said the idea in town center is that parking is not in front of the building and you are not putting parking in the front, it's to the side and mainly behind the Real Estate office, she said the idea in the code you are not sticking parking in front of the building so that is why the setback is further toward the road and to promote people walking to and from the businesses which you can still do if there is no parking to walk through, if you actually have sidewalks that lead you into your building. Mr. Gunn said if the site plan shows it's a grassy area with picnic tables or equipment and a split rail fence and it is in line with Kelly's and the real estate office. Ms. Olyha said she was thinking along the lines of tying into the walking system in LaGrange since everybody is supposed to have a sidewalk to connect each other, you might want to think about some kind of thoroughfare to get to the building from the sidewalk. Mr. Rohde said we show a sidewalk. He said they will be extending the sidewalk from Ferris all the way to Kellys and then another sidewalk going in from the sidewalk going into the building. Mr. Artus said the county comment memo is actually preliminary in nature because they've deemed the application incomplete and they will likely come back with it's a matter of local concern. He said then if not it would be majority plus 1 to over ride and then reasoning why. Mr. Artus recalled Hannaford when the board deviated from portions of the town center design standards where it said shall, the board just needed to do a findings statement. He said all these little things you are talking about at the end of the day helps the board reason why their decision is what it is.

Ms. Olyha asked if the county submittal been completed yet. Mr. Artus said they state they were waiting on building elevations, photometric plans and landscaping plans and Mr. Rohde asked if the board wanted him to submit it to them. Ms. Livigni said the applicant submits to the Town first and we send it to the County. Mr. Rohde said he would take care of it. Mr. Rohde asked if they could proceed at their own risk because the Blandings Turtle situation and added they would like to put the building pad in now so they don't have to worry and the winter would help settle it. Mr. Rohde gave the board copies of the building pad plan. Ms. Olyha said her issue was that a complete submittal has not been made to the County and we haven't wrapped up SEQR and said she wasn't inclined to give that a blessing. Mr. Rohde asked what is needed for SEQR and said we have had a long form EAF in since in September and Mr. Artus said relative to bringing fill in at your own risk, at this state, SEQR would be an issue because you would need an approved SWPPP to do so. He said if you look in the SPDES general construction permit, you can't do segmentation so you would need SPEDES permit coverage first. Mr. Rohde said he will try and get it out next week. He said what pulled him back on this was when he got the County letter and they talked about moving the building back and said now he couldn't do a SWPPP because all the drainage would be changing so that scared him. He said he wanted to get it in but then he saw that. Mr. Artus said Greg's office would need to review that as well. Mr. Rohde said he hoped to have it next week. Mr. Gunn said we can't do a proceed at your own risk if we don't have that and Ms. Olyha said that's how she feels and didn't know about the rest of the Board. She said we really should get SEQR and everything that goes with it wrapped up first so that we make sure there aren't going to be any changes. That's what SEQR is for, for the Board to gather information and make changes as needed to mitigate whatever issues we find. Mr. Rohde is it all possible to give the

Walter the SWPPP, he approves it and the board says it's fine. He said SEQR you have had for 2 months. Ms. Livigni said Walter just got the EAF today, there was an error made internally. Mr. Artus said initially a short form was submitted which was back in September and he requested a long form. Ms. Livigni said regardless of that Mr. Artus couldn't issue it without a SWPPP and Mr. Artus said and you also still have the incomplete County memo. Mr. Artus said the fire inspector needs to review the plans to make sure they have adequate access. Mr. Rohde asked who submits it to the Fire Inspector. Ms. Livigni said you should give it directly to Ken McLaughlin. Mr. Artus said the last thing you would want is to have the building pad go in and then have the building shift or site plan change based on either County Planning or Ken's comments. Ms. Olyha said we did have the water issue at the public hearing so she wanted to make sure with the storm water everything was good. Ms. Livigni said as soon as you get the SWPPP into us and Walter and Greg review it we will give you the MS4 Acceptance Form and then get the NOI, and added that didn't have to wait for a meeting, it would be done. Mr. Rohde asked if the Fire Inspector/Ken McLaughlin needed the building plans and Mr. Bolner said not for the site plan part, but when they got into the building permit process. Ken just needed the site plan for access and fire code. Mr. Rohde asked if the Planning Department had a copy we could give to the Fire Inspector and Ms. Livigni asked Mr. Rohde to give her a cover letter to put with the site plan and she would give it to Ken McLaughlin. Ms. Livigni said and as soon as the SWPPP comes in and Walter reviews it we will give you the MS4 so you can get it to the state for the NOI. Mr. Gunn said but we still can't say they can proceed at their own risk. Ms. Olyha said hopefully if everything gets in the board can issue a Neg Dec in December. Mr. Rohde said with the freezing weather, it's really going to mess us up and Ms. Olyha said she was not comfortable saying yes without SEQR. Mr. Rohde said if we get the NOI and Fire Inspector? Mr. Artus said one of the issues of getting your SPEDES permit coverage is having a Neg Dec, it's the SWPPP we need and when he submits it Greg and he will take a look at it but we couldn't do an MS4 SWPPP Acceptance Form until the Neg DEC is issued. Mr. Straub sounds like the next meeting which is December 10.

Mr. Brenner said the frost is already here but you could cover it up with hay and concrete blankets. Ms. Ferns asked can we put hay down now and the board said yes. Ms. Livingi said yes also to the hay and concrete blankets. When Mr. Rohde asked about cutting down trees, Ms. Livigni said unfortunately going down trees counts as disturbance. Mr. Artus said the DEC considers that disturbance. Mr. Rohde said we'll go with Thanksgiving. Mr. Bolner said there were a few comments on Mr. Rohde's response letter that the PB should weigh in on. He said he thought there was a set of architectural plans submitted and he said he thought it showed 2 upstairs apartments. Mr. Rohde said no, the apartments are over the realty office. Mr. Bolner said the Town Center zoning requires 2 & 3 story buildings. He said there was a comment on curbing. The town center code requires curbing, and they had requested it be more of a rustic with timber and that's important because if they are embarking on doing a grading plan, curbing impacts how they grade for drainage and if the Board doesn't answer that know then he is embarking on a grading plan. Mr. Rohde described the parking saying they want to keep the farm look so they can drive tractor's around with having to jump the

curbs. Ms. Olyha asked do we have a should or a shall? Mr. Bolner said it is not a shall and Mr. Artus said it defers back to C-1 and C-2. Ms. Olyha asked is it concrete curbs? Or what do they state? Mr. Artus said it states all off street parking areas containing 25 or more parking spaces, at least 15% of the area within the inside perimeter of the parking shall be curbed and landscaped with appropriate trees, shrubs and other plant materials as deemed necessary by the Planning Board to assure the establishment of a safe convenience and attractive parking facility. Ms. Olyha said so we have a shall. Mr. Artus said 15%, that's landscaping. Mr. Artus said yes, it's a shall, shall be curbed and landscaped and Ms. Olyha said and a shall means we have to do it.

Mr. Artus continued "other plant materials as deemed necessary by the Planning Board. Ms. Olyha said it says other plant materials, not curbing. Mr. Artus said that means you have a lot of digression with the landscaping plan but curbs says you have to have them. Mr. Straub said curbing could be tapered right? Ms. Olyha said yes, but it doesn't say concrete curbing, just curbing. Mr. Artus said that issue has come up in the past, with Apple Valley with Asphalt curbs. Mr. Rohde said they have the timber curbing in the realty place. Mr. Rohde said they are proposing timber curbs. Ms. Olyha said it just has to be curbing of some kind, and talked about the rain gardens they could have breaks and openings within their curbing to get to the grassy areas. Mr. Artus said correct and currently he didn't think that's no how it's laid out. Ms. Olyha asked if they have catch basin now? Or sheet flow. Mr. Artus said there is no curbing right now and there is some grass swales. Ms. Olyha asked if that affected their SWPPP and Mr. Artus said yes it does. Ms. Olyha said she would prefer no curbs but the code says shall. Mr. Gunn said but only 15% and Ms. Olyha said that is landscaping, it has to be broken up with 15% landscaping. Ms. Olyha said if it is designed in such a way with curbs and they have breaks that let the water flow into the grassy areas. Mr. Rohde said their curbs are a little bit flush and Ms. Olyha said but unfortunately we have to follow what the code says and code says "shall have curbs. Mr. Rohde asked the definition of a curb. Mr. Artus said you have to go to Section 199 of Streets and Sidewalks and you are going to find "concrete curb. He said that's where the details are. The Board continued to discuss the issue of curbs which Ms. Olyha read out of the code book. The Board continued to discuss the code and the definition of curbs in it. Mr. Artus referred to 240-42-E2. Mr. Bolner also read segments concerning curbing. The Board continued to research the issue of the curbing. Ms. Olyha also referred to 240-42-E2. Ms. Livigni read at least 15% of the area within the inside perimeter of the parking service of the parking area shall be curbed and landscaped. Ms. Olyha said it doesn't say anything about the perimeter of the parking lot, only about the landscaping within the parking lot. The Board suggested referring this to Ken and Susan. Ms. Olyha asked the question that should be posed to them, are curbs required to define the parking area and if so do we have the ability to pick the material. Ms. Livigni said she would ask Susan what is the requirement for curbing within the interior parking lot of the site, outside of the right-of-way, which needs to be a curbed entrance and after she answers that question, if she says something is required she would ask her for the material type. Ms. Olyha said the board can do some scenarios so they can move on with the water. She said if curbs are not required within the perimeter of the parking area, she asked the board if they were ok with the water doing a sheet flow off and

going into the grass, and the board said yes. Ms. Olyha said the next question is, and we can pick the materials, would the board be ok with the wood they are proposing, with the breaks in it so they get the water into the lawn. Mr. Artus spoke about the SWPPP and not being able to treat parking lot runoff by means of rain gardens, it would have to be bio-retention. Ms. Olyha said you can do rain gardens for the roof runoff. Ms. Olyha said once Wanda hears, is the Board ok with her notifying the applicant if everything that we've said here and it is acceptable to Ken & Susan, is everybody ok with that so they can proceed with the drainage plan so they can get their SWPPP. The Board agreed. And if not, is it alright that Wanda notifies them that they have to put some kind of curbing in the back and the wood is ok. Ms. Livigni said she will notify them anyway. Ms. Olyha said well to tell them it's ok to proceed with the wood curbs is ok back there also. Ms. Olyha said and if they are restricted all the way around, we can't do anything. Ms. Livigni said she would most likely have an answer on the curbing tomorrow from Susan and she would email Bill and the Board on the status. The Board was ok with the Board. Mr. Bolner talked about the roof and said the code says you don't want to have long expanses, you want it broken up. Ms. Olyha said is it in the roof section? She thought it was just in the walls and Mr. Bolner said he thought it was both. Ms. Olyha said they do have the vent looking things which go towards that and the roof changes pitch, they have a sign. Mr. Bolner said it is the disgression of the board. Ms. Olyha said Greg's comment referred to adding some dormers along that green side to break up the long expansive roof, is per the code, but they once you put dormers in it, it would look like a cape cod house. Mr. Sroiza said the roof is going toward the back of the property so it really doesn't make it look bad at all, if it was turned around he could understand it looking funny. He said he thought it looked fine the way it was. Ms. Olyha asked about the water tower and Mr. Ferris said it will be there. Ms. Livigni referred to the well remaining. She said it is remaining to service the Ferris Real Estate Building even though it is in the water district and remaining for irrigation. She said there is a tap going in on Monday, 11/24 to serve the building. Ms. Livigni said Greg was not aware of the conversations she has had concerning the well.

HOLZBERGER SOLAR PROJECT SPECIAL USE PERMIT – Proposed Special Use Permit located on O'Hare Drive containing 1.56 acres

Mr. Holzberger was present. He said he built his house in 1984, it's a solar house and wants to make it solar electric also. He said he has approval from the State and state funding, so now he needs approval to proceed. Bob Hamill, President of U.S. Energy Concierge spoke and said they would be building this system for John. He said John said he is also approved under the Green Jobs; Green New York Program for financing because the state believes the system is worth putting it in. He showed the board a layout of the ground mount which he said meets all of the setback requirements, 180' from O'Hare, 120' from Rte. 82 and 91' from the east, west and south property lines. He said the system itself is 60 modules, being 2 racks of 30 and has a total footprint of 40x40 feet and it is 7' high in the back and 3' in the front, so it's a 15 degree pitch. It will be mounted with soil anchors into the ground so the system is designed for 90 mile an hour wind zone and up to 55lbs per sq. ft snow load.

He showed the board a cross-sectional view of the the system looks like and showed a 360 degree view from each point outside the property line, 2 photos- one showing from O'Hare and the other from Rte. 82. He said it is pretty concealed. Mr. Straub asked the kilowatts and Mr. Hammill said it will produce 16,000 kilowatt hours, so it will save John's family \$2,200 a year in electric. Ms. Olyha asked where are the batteries and inverter. Mr. Hamill said there are no batteries and there are 2 inverters and each will be mounted on the back of each rack. Ms. Olyha asked if there was a housing unit, and the answer was it's mounted under the array. He said it will be code compliant so it will be 36" off the ground. Ms. Livigni told the board she thought the Board was going to start seeing a lot of these permits, the ones on the roof won't come before the board, but because these are on the ground they count as a structure, an accessory structure with potential visual impact. Ms. Livigni said when Mr. Holzberger spoke to Joe Luna, the important thing for this board was the visual impact. Mr. Holzberger showed the board on the picture where his house was. He showed the board the solar panels in relation to the pool. Ms. Olyha said the board needs to set a public hearing for December 18th. Ms. Livigni said this applicant is looking to get the permit in December because it's a timing issue. Mr. Holzberger said he needs to get it done before the end of the year. The Board set a \$200 escrow.

Mr. Holzberger asked about proceeding at his own risk, he said they need to get started. Ms. Livigni said you need the public hearing before you can do anything. Mr. Gunn said after the public hearing in December if they get approval, they could break ground then. Mr. Hammill asked about trenching and frost issues before the 18th. Ms. Olyha said part of the SEQR issue is the public hearing. She said if an issue is brought up they have to address it. Mr. Stus said they could dig a trench in their yard at their own risk, they don't need a SWPPP and there's no more than an acre of disturbance. Ms. Livigni said this is a residential property and he can dig trenches as long as they don't change the elevation by more than 2 feet.

LANZOTTI SOLAR PROJECT SPECIAL USE PERMIT – Proposed Special Use Permit located on Gramer Road containing 1.42 acres (Grid No. 6461-03-395048) initial presentation and set public hearing for a ground mount solar array on property.

The Permit coordinator for Solar City was present and showed the board where it will be, as well as the racking system and an aerial of where it will be. Ms. Olyha said so this is going behind the barn. Mr. _____ said you might be able to see it from Freedom Rd. Mr. _____ said it's a 10kw 40 panel. He said it was 42' long and 8 panels high. Mr. _____ said it will be at a 25 degree angle about 9'. He said he believed they were roughly 3 x 5 in size. Ms. Olyha read the rear leg is 87 $\frac{3}{4}$ " which is about 9 feet high on the north side. Overall _____ to the west is 43' she said the spacing in between each leg is 15'

The Board agreed to set the public hearing. She said it is pretty close to the barn. The hearing was set for December 18th. Ms. Olyha asked for a street view of what it looks like in the few directions she referred to on the map. The Board also set a \$200 escrow,

REQUEST FOR 90-DAY EXTENSION

Hidden Pond Estates Subdivision is requesting their first 90-day extension of final subdivision approval to be effective December 19th, 2014 and due to expire on March 19, 2015.

Mr. Straub made a motion to grant a 90-day extension, seconded by Jr. Zeidan and the motion carried unanimously. 90-DAY EXTENSION GRANTED

Mr. Zeidan made a motion to adjourn the meeting at 9:05, seconded by Mr. Straub and the motion carried unanimously. MEETING ADJOURNED

Respectfully Submitted

Eileen Mang
Planning Board Secretary

DRAFT