

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, October 6, 2014 at the LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Paul Bisceglia called the meeting to order. Board members Nancy Swanson, Sandra Lane, Christian Rohrbach and alternate Leana Cropp were present. Mark Christenson was absent. Janis Gomez Anderson Esq. of the firm of Van DeWater & Van DeWater was also present.

Mr. Rohrbach made a motion to accept the minutes of September 8, 2014 as corrected. Ms. Swanson seconded and the motion carried unanimously.

OLD BUSINESS:

3-12-01 AREA VARIANCE: MYLES LANDSTEIN, 16 VELIE ROAD,  
LAGRANGEVILLE, NEW YORK Grid No. 6560-01-138549

Seeking relief from Chapter 240-28 Schedule B that states that the maximum height of a building or structure in an R-120 zoning district is 35' and seeking relief from Chapter 240-31 F.(4)(f) Ridgeline Protection Overlay Zone which states that the proposed yard setbacks from the property line must be no less than 1.5 times the height of the proposed structure or the setback requirements in the existing zoning regulations, whichever are greater in order to construct a ham radio tower with boom antenna with a proposed height of 70' and a boom width of 23 feet and proposed setbacks of 40' and 70' from the side and rear yards.

At the consent of the applicant, and with agreement of the Town, this application has been postponed to the November 3, 2014 meeting.

9-14-02 AREA VARIANCE: OLD OVERLOOK DEVELOPERS LLC, OVERLOOK  
ROAD AND OLD OVERLOOK ROAD, LAGRANGE, NEW YORK Grid No.  
6361-02-500585

Seeking relief from Chapter 240-28 Schedule B that requires a minimum width of lot at any point of 100' for lots 2, 3, 4, 5, 6, 7 & 8 and seeking relief from Chapter 240-28 Schedule B that requires a minimum frontage on a county road of 200' for lots 3, 4 & 5 in order to carry out a 9-lot subdivision.

This application has been adjourned to the November 3, 2014 meeting.

9-14-03 USE VARIANCE: GARY E. BECK JR., Z3 CONSULTANTS (OWNER, JAMIE  
TURELL), 275 EMANS ROAD, LAGRANGEVILLE, NEW YORK Grid No.  
6559-01-465994

Seeking a use variance in order to permit light industry in an R-120 zoning district. Chapter 240-27 Schedule of Permitted Uses & Special Use Permits does not permit light industry in an R-120 zoning district. (*Zoning District designation changed pursuant to Town Resolution on September 10, 2014 from R-120 to RLD*)

Gary Beck Sr. of Z3 Consultants was present to represent the application. Mr. Beck was sworn in by Mr. Rohrbach.

Ms. Swanson asked if Mr. Beck was affiliated with Gary Beck Jr. of Z3 Consultants. Mr. Beck Sr. said he worked for Mr. Beck Jr.

Mr. Bisceglia said the board had received a letter dated September 22, 2014 from Dutchess County Dept. of Planning and Development. The ZBA had also received a memo from the LaGrange Planning Board dated October 1, 2014 which Mr. Bisceglia read into the minutes:

“The Planning Board offers the following comments, questions and/or concerns:

- Range of uses to be allowed
- Whether the current site development will be altered in any way, either enlarged or expanded
- Environmental impacts associated with the most onerous of the uses falling within the range of uses
- Noise
- Consistency with the character of the neighborhood
- Will the variance run with land or with owner?
- Any and all other criteria which the ZBA is compelled to apply in its own right under prevailing law
- Any conditions the applicant is willing to self impose on this activity.”

Mr. Bisceglia said these were suggestions that the Planning Board had given to the ZBA after their review. In addition to that there was a letter from Wanda Livigni, the Town of LaGrange Administrator of Planning & Public Works that stated:

“I am respectfully requesting that the ZBA open an escrow for this application in light of type of application and anticipated SEQRA involvement by the Town’s Consultants. My recommendation is for an opening escrow of \$1,500.”

Mr. Bisceglia said that is because the Town is anticipating SEQRA to be quite involved since there are no specifics given on the use. Mr. Bisceglia asked Mr. Beck if he knew how his client stands on that. Mr. Beck said there was some discussion on that at the last meeting.

Mr. Bisceglia asked Ms. Gomez Anderson how the board initiates an escrow account. Mr. Bisceglia said because this application is non-specific they are taking the worst case scenario and applying it which has a certain SEQRA effect on it which is going to require the town’s consultants. Ms. Gomez Anderson said this will likely require an Environmental Impact Statement because there is no specificity at this point and they will have to take a worst case scenario under the most onerous environmental use.

Mr. Beck said this is not a suggestion from them or their client. This is what was suggested by the Town’s building inspector as a possible way to go through with this. He believed that his client would probably be willing to accept any one or all of the comments in the Planning Board’s memo. His client has stated that she does not want chemicals or automotive repair or auto body there. Mr. Beck said as far as light industry is concerned he wants an idea of what that is and then his client can tailor her needs to that. Right now the property is being used for warehousing. Mr. Beck said he felt that County Planning was right on target. There are similar properties around that probably need to be addressed. Concerning the character of the neighborhood, there was only one house relatively close to the parcel. The remainder of the property surrounding the lot is a hunt club. Putting houses on the property would be a

disaster. Mr. Beck said he is open to suggestions for a use that will make it feasible for his client and the Town. Ms. Swanson said she did not think it was the role of the ZBA to suggest what the client should do with her land. Mr. Bisceglia said he understands that she is looking for guidance in order to have the least amount of issues. Mr. Beck said not necessarily what the use will be but rather what the board feels should not be there.

Mr. Bisceglia asked the secretary if all the adjoining property owners had been notified. The secretary said all property owners within 500 feet of the property had been notified and no response had been received. Mr. Bisceglia said right now they are operating there and there is no complaint about noise or trucks.

Ms. Swanson said she needed clarification as to whether the use there now is nonconforming or is it a continuation of what was there before, but that was storage of fruit. She did not know whether the current warehousing fits within that, and is therefore a continuation. Mr. Beck said they are warehouse buildings and nothing has changed, however what is put in them may be different. Ms. Swanson asked if there had been any violations issued. Mr. Beck said he believed there had been an issue on the resident's part and those issues were cleared up. The business that is there now, a granite company, does not have a use permit. Ms. Lane said there is also a dog training business there.

Ms. Gomez Anderson said that on September 10<sup>th</sup> the Town Board passed a zoning amendment which renamed all the districts. This property now is not in an R-120 zoning district but under the new zoning it is in an RLD which is a residential low density district. Each board member and the applicant received a list of all the uses permitted in that district. The list of uses is now expanded to clarify what is permitted in the districts. Ms. Gomez Anderson said those were the uses that the applicant would have to go through to prove financially that they would not have a reasonable return on the property. Mr. Bisceglia said that would give the applicant more definitive choices. The ZBA was not there to tell them what should and should not be permitted. Mr. Beck said that when they look at residential there is nothing there that states that it can be used as a commercial application, other than kennels. Ms. Swanson asked if the property was used as an orchard. Mr. Beck said the whole property, he has to assume, was a couple of hundred acres at one time and this was an orchard. Part of the property was divided off for the rod and gun club, which is an active club.

Mr. Beck said he would like to have something come back from the Town Board or ZBA to see what their thoughts are, to see if they would pass some kind of zoning on this property, along with the others. Ms. Swanson asked what was meant by "along with the others". Mr. Beck said there were a few properties, for example Barton Orchards on Noxon Road which is almost identical to this one.

Mr. Bisceglia asked if there was only one business operating there right now, or are there two businesses. Ms. Lane said there is a sign that says "Top Notch Dog Training" and a sign that says "Empire Granite".

Ms. Gomez Anderson asked Mr. Beck if his client had approached the Town Board. Mr. Beck said no. She has had some surgery and will be out of commission for a while. Mr. Beck

said he would like the ZBA to send a letter to the Town Board to see what their intentions are and keep it open for a while. He said they would pursue their end.

Ms. Gomez Anderson said the letter from County Planning talks about changing the definition of light industry. It does not talk about rezoning the property. Ms. Swanson said the Town has rezoned some properties lately.

Mr. Beck said the County referred to other parcels of land in the Town and the Town needed to look at that. Mr. Bisceglia said the letter said "It is worth noting that there are other former farms and orchards in the district that could conceivably pursue similar adaptive reuse projects".

Mr. Rohrbach said it sounds like the question is can they or should they address a note to the Town Board referencing this letter from the County and asking whether the Town Board is willing to consider or intends to consider something about potentially changing the zoning. He was not sure whether that would be appropriate for them to do.

Mr. Bisceglia said that may be a request but the burden lies with the applicant and his client because they have to come up with a specific idea of what they want to do.

Ms. Lane said she was not at the last meeting but she felt they have to demonstrate that they cannot get any other uses for the property. Mr. Rohrbach said at the last meeting they talked about some of the criteria for a use variance which would involve showing a financial statement that indicates that there is an undue hardship for them under the circumstances.

Ms. Lane said at this point there is nothing to ask the Town Board. Mr. Beck said they should be looking at both the commercial and industrial zones and apply them to this parcel of land. Ms. Gomez Anderson said they have to show under the residential uses they cannot get a reasonable return on the property for any permitted use in that district and show how that is not possible. That includes original purchase price or possible sale price. Then they should come in with a very specific use that is a light industrial use. She understood that the fear is how they describe the granite use because the variance should be broad enough so that if that business leaves a similar use could be brought in.

Mr. Bisceglia asked if the owner had approached the Assessment Review Board about reducing the taxes. Ms. Swanson said that should be the first step in getting her assessment down, especially given the fact that she is not getting much of anything out of it.

Mr. Beck asked that setting an escrow be held up at this time as the owner may decide not to do anything. If she does proceed then they will know that that has to be brought forward. Ms. Gomez Anderson said that is a town policy question. Mr. Beck said if nothing is going to be taking place, he said there was no sense in his client having to put up money.

Mr. Bisceglia said at the next meeting they would need some documentation that would show what they would like to do with the property.

Ms. Gomez Anderson said that typically someone comes in and applies for a certain use. They are rejected and they come to the ZBA and seek a use variance. That is the missing piece here.

Mr. Bisceglia asked how this came to the ZBA. Mr. Beck said the building inspector suggested that they come to the ZBA.

Mr. Rohrbach referred to a comment he had made earlier about not thinking it would be appropriate for the ZBA to approach the Town Board about changing the zoning. However, he suggested that the applicant might want to do that.

Mr. Bisceglia made a motion to adjourn the applicant to the November 3<sup>rd</sup> meeting.  
APPLICATION ADJOURNED TO NOVEMBER 3, 2014.

Mr. Bisceglia made a motion to close the meeting at 8:11 p.m. Ms. Lane seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley, Secretary