A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, January 5, 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, Mark Christenson, Sandra Lane , Christian Rohrbach and alternate Leana Cropp were present. Janis Gomez Anderson Esq. of the firm of Van DeWater & Van DeWater was also present.

Mr. Bisceglia made a motion to accept the minutes of December 1, 2014 as submitted. 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 February 2, 2015 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.

John Andrews P.E. of the firm of Rohde, Soyka & Andrews was present. Mr. Andrews said he was present on behalf of Old Overlook Developers who are pursuing a subdivision for 9 lots. The property is located on Overlook Road and Old Overlook Road. It was the former Millett tree farm.

Over the years they have had several proposals before the Planning Board. They have now reduced the number of lots to 9. One lot has direct access to Overlook Road and the balance of the 8 lots will have access from Old Overlook Road. They are proposing two common driveways for the lots on Old Overlook Road, one to serve 5 lots and one to serve 2 lots. The lots are all being developed as RFD lots, meaning that they all have individual wells and septics and a minimum of 80,000 sq.ft is required. The Planning Board has issued a negative declaration pursuant to SEQR.

Mr. Andrews said they are seeking two separate sets of variances. The first is the minimum frontage on a county highway. They are proposing 75 feet where the Town requires 200 feet.

The other requirement is the minimum width of lot at any point. They are seeking that for lots 2, 3, 4, 5, 6, 7 and 8. Most of those are because they are being proposed as flag lots so that they can take advantage of the common driveway. Lots 7 and 8 almost comply with the 100 feet as they are approximately 97 or 98 feet in width. Their original proposal was for a town road but everyone was in favor of having a private drive, creating a number of flag lots, but lots 2, 3, 4, 5 and 6 all develop their access off the private drive. Hence the reason for the variances.

Ms. Swanson asked if they were to receive no variances, how many lots would they be able to have. Mr. Andrews said they would have to go back and reconfigure but at one point in time with proposing a town road they had 30 lots with a clustered configuration. Today they would probably end up with 12 lots with a town road. That would require about 1200 feet of new town road which the Highway Superintendent is not in favor of.

Mr. Bisceglia asked Mr. Andrews to go through each individual lot and describe the frontage of each one precisely. Mr. Andrews went through each lot, as follows:

Minimum lot frontage on state or county road:
Lot #1, no variances required
Lot #2 75' provided. 100 feet required
Lot #3 75' provided. 200 feet required
Lot #4 75' provided . 200 feet required
Lot #5 75' provided. 200 feet required

Minimum width of lot at any point:
Lot #2 75' provided. 100 feet required
Lot #3 75' provided. 100 feet required
Lot #4 75' provided. 100 feet required
Lot #5 75' provided. 100 feet required
Lot #6 75' provided. 100 feet required
Lot #7 98.13' provided. 100 feet required
Lot #8 98.32' provided. 100 feet required

At this point, Mr. Bisceglia made a motion to re-open the public hearing. Ms. Lane seconded and the motion carried unanimously.

There were no comments from the public .

Mr. Rohrbach referred to the lots that have the 200 feet requirement on the county road and asked where will they get their entrance. Mr. Andrews said in the past the county had only entertained one location for a driveway on a county road, which they are using for Lot #9, the 20 acre parcel. The other lots with the 200' requirement will have a shared driveway coming from the town road on Old Overlook Road which he felt was a little kinder to the owners than a common driveway off the county road. Mr. Rohrbach said those lots have an odd configuration. He wondered how usable those narrow strips would be because the houses are all proposed to be on the main portion. Mr. Andrews said the houses sited there meet all the town requirements. He said they were all nice little buffers but other than putting a driveway in if they had to it wouldn't be used for much. One of the things they have tried to do is put

the houses where they won't have to take down the trees because that enhances the privacy and a lot of what they have done is follow the old road. They made sure each of the house site meets or exceeds the town requirements.

Mr. Bisceglia asked the secretary if all the adjoining property owners had been notified. The secretary said they had. No negative response had been received from anyone.

Ms. Swanson asked what had happened when the applicant appeared before the Planning Board in December. Mr. Andrews said he had received comments from Walter Artus, the majority of which had been addressed in sufficient detail to obtain a negative declaration. The board referred the application to Clark Patterson Lee for further review. They have not received their comments yet. The board indicated to Mr. Andrews that they would not entertain preliminary approval until and unless they received the variances from the ZBA, even though they were willing to consider preliminary approval because the Planning Board board had walked the property in the past and were in favor of the proposal.

Ms. Swanson asked what was referred to Clark Patterson Lee. Mr. Andrews said they have the drawing set before the ZBA plus about seven other drawings, the subdivision plat, the road profiles, grading plans and all the necessary details. The referral to Clark Patterson Lee was for the technical review.

Mr. Bisceglia asked if Mr. Andrews could give the board an idea of what is the difference in height from the roadway to the house locations. Mr. Andrews said the roadway elevation is about 402' and most of the house sites are at about 423. Mr. Bisceglia asked about the furthest ones back. Mr. Andrews said they drop down so they are below the road so they are over the crest of the hill. He indicated a lot where the first floor elevation would be around 406. Mr. Bisceglia asked what is the highest point that the driveway would hit from the roadway. Mr. Andrews said that is about 423 to 425. If you go up the hill you come to a high point and then it runs down to the back. The only ones at the top of the hill are the ones up front. Mr. Bisceglia asked the length of the narrow strip. Mr. Andrews said the longest is about 500 feet. Mr. Bisceglia asked if they would be individual driveways. Mr. Andrews said there is one driveway for lot #9, and one driveway for Lot #1. Mr. Andrews indicated on the map a shared driveway that splits.

Ms. Swanson asked if there was anything that Clark Patterson Lee was reviewing that could change the variances needed. Mr. Andrews said not that he was aware of. He said the driveway is where it is and the grading can be accommodated easily within the driveway. Between their initial application and their new application they have shifted the driveway to keep some trees. The grading is not that substantial. The only things that Clark Patterson Lee will be looking at will be to make sure that the driveway grade meets the appropriate standards where they meet the town roads. One of the reasons that they have completed all of the Board of Health deep percs and system design was because that would have had the potential to alter how it was done, but that process has been completed and the septics have been designed. He can't go to the Health Department for approval, however, until he has preliminary approval. The only change that had been made was to change the size of two of the lots because one was over 10 acres and one was under 10 acres. They were split down the middle so they are roughly the same size. The dividing line between the two falls in the wetlands.

Mr. Bisceglia asked if any of the driveways cross any wetland. Mr. Andrews said the only driveway that crosses a wetland is the wetland buffer for Lot #9. It also crosses a portion of the floodplain but they are not seeking any variances for that one. All of the lots and driveways are almost completely out of the wetland. He said they are federal wetlands, not state wetlands, and are subject to the Town regulations.

Ms. Gomez Anderson asked whether the County had responded to the referral. It was not clear at the meeting whether they had responded, however the 30 day time period has expired. (The secretary later found the referral from the County dated 12/9/14 stating this was a matter of local concern).

Mr. Bisceglia made a motion to close the public hearing. Ms. Lane seconded and the motion carried unanimously. PUBLIC HEARING CLOSED.

Mr. Bisceglia said it is rather complicated because it covers a number of lots. Ms. Gomez Anderson said that they might want to do a straw poll of the board if they felt some of the board members might want to vote differently. If everyone feels they might want to vote one way or the other on the whole thing, then it could be done as a single vote.

Mr. Bisceglia said, based on the lot sizes that have been provided by Mr. Andrews, he did not have any problems with what is proposed.

Ms. Swanson just needed clarification on the lot that is near wetlands. She asked if Mr. Andrews would have to apply for a permit for that. Mr. Andrews said that as part of his application before the Planning Board he needs a Dutchess County Highway work permit, a Floodplain Development permit and a permit from the Planning Board to cross the wetland, all for that driveway. Mr. Andrews said there is no other way to get to that lot because the stream runs along the edge of Overlook Road. He said it is not much of a crossing, its just wetland buffer. No development on the whole site is in the wetland.

Mr. Bisceglia said each of these lots are in an 80,000 square foot minimum requirement area. Some of the lots are much greater than that. He asked Mr. Andrews to tell the board the size of each of the lots. He said Lot #1 is 2.62 acres, Lot #2 is 2.9 acres, Lot #3 is 3.29 acres, Lot #4 is 3.84 acres, Lot #5 is 8.99 acres, Lot #6 is 8.47 acres, Lot #7 is 8.85 acres, Lot #8 is 6.29 acres and Lot #9 is 20.1 acres. All of the lots exceed the 80,000 square foot lot size.

Mr. Bisceglia then addressed the Findings:

Character of the Neighborhood and Detriment to Nearby Properties

The lots are required to be a minimum of 80,000 sq.ft. All of the lots are well above the minimum lot size and they fit with the character of the neighborhood.

Alternative Methods for Achieving Benefit Sought by Applicant

The applicant has gone through four or five proposed layouts, and this is the smallest amount of lots proposed for the property.

Substantiality of Variance Requested

Each of the lots falls very close to the minimum width requirement. The frontage on a county road is substantial but based upon the layout of the subdivision, it is feasible that these lots and driveways should be allowed.

Effect or Impact on Physical or Environmental Conditions in the Neighborhood
There is not a huge topography change from the roadway to the top of the property and should not significantly change the stormwater runoff.
Self-Creation of Difficulty
This is self-created but the proposal will generally benefit the area and the tax base.

Mr. Bisceglia said, based on the Record of Findings, he made a motion to grant the variances that are sought by the applicant. Ms. Swanson seconded and the motion carried unanimously.
VARIANCES GRANTED

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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)*

This application has been adjourned to the February 2, 2015 meeting.

12-14-01 AREA VARIANCE: ANTHONY & JOANN TIRONE, 9 PONDVIEW LANE, POUGHKEEPSIE, NEW YORK Grid No. 6460-04-715426

Seeking relief of 13' from the minimum setback of 20' from the r.o.w. of Stringham Road in order to construct a car port with a proposed setback of 7 feet per Chapter 240-26 M.(1) and Chapter 240-28 Schedule B.

Anthony Tirone was present and was sworn in by Mr. Christenson.

Mr. Bisceglia said that at the last meeting the board did not have enough information to make a decision.

Mr. Tirone provided more information and indicated where the leach fields for his septic are. He showed where the carport is located and the 2 other sheds that have C.O.'s. Mr. Tirone said that originally when he built the house he wanted it to face the opposite way but it was a flag property and his back yard is now his road frontage which does not leave him much option to do anything else.

Mr. Tirone filed for his building permit and the carport was constructed while he was away and it was placed too close to the road.

Ms. Swanson asked if Mr. Tirone was planning on constructing a drive between the carport and the driveway. Mr. Tirone said no because the leach fields are there. The vehicles will just go over the grass.

The secretary said all the adjacent property owners had been notified and no responses had been received.

Ms. Swanson said there were trees screening the carport from Stringham Road. If the request is approved she would like a condition added that if the trees come down, they should be replaced by some other trees as screening.

Mr. Bisceglia made a motion to re-open the public hearing. Mr. Rohrbach seconded and the motion carried unanimously.

There being no comments from the public, Mr. Bisceglia made a motion to close the public hearing. Ms. Lane seconded and the motion carried unanimously. PUBLIC HEARING CLOSED.

Mr. Bisceglia then addressed the Findings:
Character of the Neighborhood and Detriment to Nearby Properties
The car port already exists and seems to fit well into the neighborhood. If the trees that are a buffer should come down, they should be replaced by some similar vegetation.
Alternative Methods for Achieving Benefit Sought by Applicant
The carport could be removed but it is only fair to let it remain because it was only discovered after the permit had been issued and the structure erected that it did not meet the minimum setback.
Substantiality of Variance Requested
This is not a substantial variance.
Effect or Impact on Physical or Environmental Conditions in the Neighborhood
The carport has been built and inspected by the Building Inspector so it is assumed he has reviewed the stormwater or other issues associated with the construction of the building
Self-Creation of Difficulty
This is not a self-created difficulty as it was discovered after the fact.

Mr. Bisceglia said that, based on the Record of Findings, he made a motion to grant Anthony Tirone relief of 13' from right of way of Stringham Road in order to construct a carport with a setback of 7' with the condition that if the vegetation between the carport and the road is removed at any point in the future, it should be replaced with an equal amount or amount to exceed the existing, for screening purposes. Ms. Lane seconded and the motion carried unanimously. VARIANCE GRANTED

12-14-02 USE VARIANCE: JOSEPH BRIANTE/EXPRESS REALTY SERVICES (OWNER: STEVEN AMES ENTERPRISES LLC), 1820 ROUTE 82, LAGRANGEVILLE, NEW YORK Grid No. 6559-02-600783
Seeking a Use Variance in order to permit a fast food establishment in an RLD (residential low density) zoning district. Chapter 240-27 Schedule of Permitted Uses & Special Use Permits does not permit fast food establishments in an RLD zoning district.

Joseph Briante was present. Mr. Briante said he wanted to keep the use of the property as it has been which is a restaurant or fast food. To revert it back to residential would be an economic change and it would cost a hundred thousand to convert it back to a house with a big parking lot. Since it's been like this he can't understand why it can't stay the same use. It has been a restaurant for the past 10 or 12 years.

Mr. Bisceglia said this has not been operation for a certain amount of time. Ms. Gomez Anderson said this is prior nonconforming use and that use stopped some time in December 2013, therefore the nonconforming status has expired.

Mr. Briante said because he was using it to sell ice cream he always closed in the winter time. Mr. Rohrbach said that it was not open at all during the summer of 2014 so there was a lapse of greater than 12 months.

Ms. Swanson asked if the business got approval for an ice cream business. Mr. Briante said when his client purchased it, it was pizza and hot dogs and hamburgers and ice cream. Then he was told to take out the pizza oven as the Building Inspector did not like that. Ms. Swanson said that the ice cream use would have been a conforming use according to the town records, and the pizza and hot foods would be nonconforming. She said that distinction needs to be made.

Mr. Christenson said he had asked to see the property file, and was it available. The secretary said she did not have the file.

Mr. Briante said he told the Building Inspector that he wanted to open up in December. The Building Inspector said he would not allow it.

Mr. Briante asked the board what could he do with the property. Mr. Rohrbach said it was not the Board's responsibility to tell the applicant what he could do. Mr. Briante said they have been using the property as a restaurant for over 10 years. They just want to continue the use. The parking lot is there, it sits close to the road. It would not be good as a residential home.

Mr. Rohrbach asked the applicant to re-cap what his actual plan is for the building. He asked how much space does he require for the restaurant, the kinds of foods and beverages, how many tables.

Mr. Briante said he was approved by the Building Inspector for 37 seats and they would like 50. He has someone who would like to purchase the place and have an Italian restaurant.

Mr. Bisceglia said he has some information from a town officer concerning the use of the property. Seven tables were allowed, assuming about four per table. The septic system on the property could not handle more than that. Mr. Briante said they would design a new septic. Mr. Bisceglia said that in order for that to occur there would be a certain amount of approvals that would have to be given and before they could even consider a variance they would have to know if the use would be allowed.

Mr. Bisceglia said he would like to re-open the public hearing.

Mr. Rohrbach said he had asked the applicant for some specifics about the types of foods he was proposing. That might be of interest to the public before the public hearing is re-opened.

Mr. Briante said a full range of Italian food is what is proposed. Maybe they could open up with 27 seats and then they could return when they want to enlarge.

Mr. Bisceglia said it is not only the septic that is a concern. A lot of other issues will come in to play, for example, the size of the parking lot, the number of handicapped parking spaces, what will be the paved surface in relation to the size of the lot, as well as what the neighbors will be concerned about.

Mr. Bisceglia said when you are talking about restaurant, you are also talking about alcohol which is a consideration of the adjoining property owners as they do not want to be subjected to people acting out.

Mr. Briante said that changing use to another use is economic hardship for his client. He bought the place like that and he wants to sell it like that. His client could lose $100,000. Mr. Briante suggested that they could plant trees along the property line between neighbors if that would help blocking the lights.

Ms. Gomez Anderson said the applicant has to have written proof of the financial hardship and that the property cannot be used for any other use.

Mr. Rohrbach said the Town Code has a table which says what the different residential areas are and what types of uses are permitted uses in those designated areas. One of the things they will have to do is take a look at the table and let the board know why none of those could be applicable in this case. Also, what the financial background is.

Mr. Bisceglia said that in addition to that the Board will need certain consultants to review the information that he will provide so an escrow account will need to be established. An initial amount of $500 is requested. Ms. Gomez Anderson added that this is an unlisted action under SEQR so there will be some environmental questions which may require some engineering review.

Mr. Briante said that is a good thing as it means they are moving forward. Mr. Bisceglia cautioned Mr. Briante that it does not guarantee anything.

Mr. Bisceglia then made a motion to re-open the public hearing. Mr. Rohrbach seconded and the motion carried unanimously.

Jim Pepin, 1810 Route 82 said he lives directly next door. When he and his wife first moved into their house the property next door was Pine Cones and it was closed. The property was bought by Joe's Dairy Bar and they initiated an ice cream parlor and he did not have a problem with that. By 10:00 p.m. everyone had gone home and it was quiet. Because Mr. Pepin had bought the old Blessed Kateri rectory they had five parking spaces in the front and the only problem they had was that people wanted to park there in order to use Joe's Dairy Bar. They have had problems with kids hanging around the dairy bar at night after hours. After about one year Steve closed down the business and started modifying the place. He walked by and saw taps and that bothered him. Now he understands they want to make it into an Italian restaurant and they would be serving spaghetti, meatballs and a glass of wine – more alcohol. He totally objects.

Steve Hacker, 22 Beaver Road said he has lived there since July of 1982. At that time the one story brick building was an electrical supply house, AB Company. It was wholesale, no retail. There was no traffic and no noise. The business then turned into Pine Cones which was nice, but they were having problems with soda cups, straws, plates on their lawn. More important, they were having driving problems because cars come and go as an ice cream place but whole teams were coming. This was great but they were parking on both sides of the street. The people who had moved in across the street on Beaver Road had a new born baby at that time and there was parking on their property. Mr. Hacker said his next door neighbor at that time was the assistant fire chief for the Town of LaGrange. He pointed out to the owner of Pine Cones that with parking on both sides of Beaver Road, an ambulance could not get up the street. If you have Route 82 and the exit of the parking lot parallel to Route 82 and you are coming out of the parking lot there is a stop sign you can't see behind you, especially with the shrubbery, a car coming north on Route 82. If you are coming out of the parking lot you will have an accident.

Mr. Hacker read a letter that he had sent to the Building Inspector in April 2012 for which he never got a reply. (see addendum 1). He also was not notified of any meetings.

Ms. Swanson asked if Mr. Hacker remembered when it became Pine Cones. It was stated that it was 2002.

Joanne Storms of 20 Beaver Road said she has the same concerns as Mr. Hacker. She said the only exit from the property is on to her road and several times when she has tried to make a right onto the road when Pine Cones was open, she was stopped because someone was pulling out of the small driveway. If someone is consuming alcohol they might not want to use the main road but may come up through the side roads which are all connected. Her son will be starting to drive soon and she will be concerned about his safety. She does not know where they would put 50 people inside that restaurant.

Mr. Bisceglia asked the size of the lot. He was told it is 1.69 acres. Mr. Briante said it is ¾ black topped and may be a third gravel. There are no lines there. He said there is a big tree line in back of the property and he does not see how it can be noisy because the restaurant is close to the road. The kitchen is in the back. Mr. Bisceglia said it gets noisy when people leave the restaurant. Mr. Briante said the closest house is 2 or 3 hundred feet away from the building. Mr. Bisceglia said that is something that has to be engineered. Mr. Briante said they can work on the parking. He said there is plenty of room. Mr. Bisceglia said it is not just the parking.

Suzanne Reid of 9 Beaver Road said she wanted to add to what she had spoken about at the last meeting. She feels for the financial hardship of the owner, but what about the property owners as they have to worry about their property values going down if an establishment like a restaurant serving alcohol opens up. The other issue she wanted to address is that Mr. Briante made reference to a letter that Mr. Deo Read, an adjacent property owner, had signed saying that he was OK with the property opening up as a restaurant. Ms. Reid said she had spoken to his wife and she said she did not want him to sign the letter. He was a very sick man, and has actually just passed away.

Ms. Reid also asked the definition of a restaurant because she keeps hearing that the building has been a restaurant for the last 10 years. For as long as she has been there it has never been a restaurant in her eyes. Has it been zoned as a restaurant?

Ms. Gomez Anderson said the property is zoned residential – RLD – residential low density and there are certain kinds of uses that are permitted under that designation. She said here understanding is that the property was previously approved for an ice cream use.

Mr. Bisceglia said the file would be reviewed by the board members. He said at one time the zoning there was C-2 and at a certain point the zoning was changed. Apparently there had been some allowances to be put there but he did not know the details at this point.

John Storino, the owner of Joe's Dairy Bar said he had some information that he did buy a restaurant. He had pictures that he took showing the ovens including a pizza oven that he took out. There were two kitchens. Mr. Bisceglia said that may be true but that does not mean they were allowed. He said he got a C.O. and a Certificate or Use dated November 30, 2011, and was allowed to get a beer and wine license. He asked why he wasn't stopped with the liquor license. He was made to put in a fire system and burglar alarm. Mr. Christenson said the NYS Liquor Authority approval was April of 2013.

Ms. Gomez Anderson asked about the ice cream use. It was a conforming use and then it became nonconforming because it changed to a residential district. She asked if it was during the time it was residential that it was approved. It was determined that they needed to see the file.

Mr. Bisceglia said that the use was not active for more than 12 months so it fell out of conforming use.

Mr. Storino said he got static from the Town concerning the signs and he did not want the hassle. He mentioned that there had been a big drainage problem on the corner of Rte 82 and Beaver Road. Mr. Storino said he was instrumental in getting the improvements done.

Mr. Hacker said there were still some drainage problems on the Route 82 side.

Mr. Storino submitted some pictures of the interior of the structure for the file.

Ruth Lizotte of 1810 Route 82 was not sure if it could happen or not but her concern was that there is a big lot that runs up against her property. Her fear is that a tent could be put up for smoking purposes.

Ms. Gomez Anderson said they had already asked for more documentation from the applicant. She said they did need to find out what the status of the property is. If it turns out that it is a nonconforming use that has expired then a use variance is required and they will require dollars and cents proof that no other use in the district will yield that return. She said it might be beneficial for them to speak to an attorney to talk about what the requirements are.

Mr. Bisceglia said an escrow account will need to be established. Ms. Gomez Anderson said she did not know that site plan approval would be required but that could be a condition that could be placed on any use variance granted.

Mr. Bisceglia said they have a file to review and they await specific documentation showing economic hardship from the applicant. He then made a motion to adjourn the public hearing to February 2, 2015. Ms. Lane seconded and the motion carried unanimously. PUBLIC HEARING ADJOURNED TO FEBRUARY 2, 2015

12-14-03 USE VARIANCE: DUTCHESS PROVISIONS (OWNER ALAN LEHIGH OF 3 DAUGHTERS HOLDING CO. LLC) 141 DALEY ROAD, POUGHKEEPSIE Grid No. 6259-02-897882
Seeking a use variance in order to permit warehousing and storage of six commercial vehicles in an RFD (residential flexible density) zoning district. Chapter 240-27 Schedule of Permitted Uses & Special Use Permits does not permit warehousing an an RFD zoning district.

Ms. Gomez Anderson informed the board that she had a conflict with this application and would not be able to advise the board in this matter.

Mark Day P.E. of the firm of M.A. Engineering was present.

Mr. Day said that at the last meeting they presented a proposal for Dutchess Provisions (Boars Head) to occupy the existing Lehigh Landscaping property on Daley Road. The purpose would be to park 5 vehicles there and put refrigeration inside the existing building.

Mr. Bisceglia said that since the last meeting they have received a response from the Department of Planning & Development which he read into the record:
"The Dutchess County Department of Planning & Development has reviewed the submitted referral for countywide and intermunicipal impacts as outlined in General Municipal Law (Article 12B, §239-l/m).

Action
In 1996 the Zoning Board of Appeals granted an area variance to this property to permit operation of a landscaping business and sale of horticultural products on a substandard size lot. Presently, the applicant is seeking a use variance to permit "warehousing" uses including storage of commercial vehicles.

Comments
The property's eastern boundary (402 feet in length) runs along the Dutchess Rail Trail, a County owned linear park. It appears that materials and equipment from this and adjoining operations are being stored off-site upon County-owned land. If the Board is inclined to grant a use variance in this case, then the applicant should be required to remove all materials and equipment to the subject property.

The subject property and the adjoining one to the north contain a stream corridor. The Board should ensure that the integrity of the required 20-foot buffer along the stream is established and maintained.

Recommendation
Preserving the integrity of the Dutchess Rail Trail right-of-way is a matter of county wide and regional concern. We recommend, therefore, that the Board not grant the use variance unless it contains the following condition:

- *the applicant must remove all materials and equipment to the subject property.*

Voting and Reporting Requirements: If the Board determines to act contrary to our recommendation, the law requires it to do so by a majority plus one of the full membership and that it notify us of the reasons for its decision.

The Department recommends that the Board rely upon its own study of the facts in the case with due consideration of the above comments.
Signed by Brian Kehoe, AICP, Planner

Mr. Bisceglia said they have another issue where Van DeWater & Van DeWater has notified the Town of a conflict which requires that the Town hire another attorney. In order to do this an escrow must be established. The escrow account generally goes in $500 increments. It will probably escalate to $1,000 to $1,500. Before the board can continue an escrow account will have to be established and funded relatively quickly so that the Town can hire another attorney and have him review the documents in place and give direction to the board. Mr. Bisceglia added that if they were so inclined to continue an escrow account should be established within 7 to 10 days. Establishing an escrow does not in any way approve or disapprove the variance process.

Mr. Day said he would discuss this with his client.

Mr. Christenson asked what was the County's reference to materials and equipment in the right of way? He assumed this was from the landscaper.

Ms. Debbie Leonard said she is the wife of the applicant and she asked for an explanation as to what the County is looking for.

Mr. Leonard said he was withdrawing his application. Mr. Rohrbach said he had given a very articulate presentation about his business and one of the comments he made at the time was to do with wanting to relocate in LaGrange. He would like to state that as a resident of LaGrange he would very much like Dutchess Provisions to be located in LaGrange. The question here was whether this was a site that was appropriate for that.

In answering Ms. Leonard's question Mr. Bisceglia said the County wants any material that is stored by the landscaping company to be removed from the r.o.w. That is not a tremendous amount. Mr. Day said the County did a survey and there were some pins set which revealed some encroachment into the r.o.w. He said it is firewood which will be moved out.

Mr. Day added that what concerned him was that he was told there is a very high threshold to prove financial hardship. They did submit two documents, one from the accountant and one from the realtor and he would like a straw poll to determine whether the board had a chance to review the documents. Mr. Bisceglia said they do have it, but in fairness to the board and

the residents of LaGrange, it has to be reviewed under a legal aspect as well. If his client does not wish to continue the board would need something in writing stating that he would like to withdraw his application. However the board is willing to listen to the applicant and to the adjoining residents but what the applicant wants to do is his business.

Mr. Bisceglia made a motion to adjourn the public hearing. Ms. Lane seconded and the motion carried unanimously. PUBLIC HEARING ADJOURNED
Mr. Bisceglia made a motion to close the meeting at 9:07 p.m. Ms. Lane seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley, Secretary

Town of
LaGrange, NY

Susan Quigley< squigley@lagrangeny.org>

The Dugout Grill
1 message

SBHacker2945@aol.com< SBHacker2945@aol.com> Wed, Apr 18, 2012 at 6:20 PM
To: bzf@lagrangeny.org
Cc: rhacker77@aol.com

STEPHEN B HACKER
22 BEAVER ROAD
LaGRANGEVILLE, NY 12540-6021
845.223.3861

April 19, 2012

Town Of LaGrange
120 Stringham Road
LaGrangeville, NY 12540

Attn: Kenneth McLaughin,

My wife and I have lived at the above address for thirty years. During this time we have seen the neighborhood change and grow. Many more houses have been built, including four right across the street from us. We were the youngest in the immediate area. Whenever we heard a car go by we would look to see who it was. There were even a few people out for a ride on horseback. It was great to raise a family here. Now we are the oldest. Many of the "old timers" have pasted away and have been replaced by young couples with small children. It is still a great place to raise a family. Our grandchildren play at our home as often as possible.

When Pinecones opened at the corner of NY Route 82 and Beaver Rd, things started to change. It got even worse when Joe's Dairy Bar opened. It became increasingly difficult to drive onto Beaver Rd with cars, vans, s.u.v, and trucks parked everywhere. My next door neighbor, Steve Storm, who was an Assistant Fire Chief for the Town Of LaGrange at the time, complained to the owners that fire apparatus and ambulances would not be able to gain access Beaver Rd. He also mentioned to them, that the ambulance had been to my home on a few occasions due to my heart problems. A blocked road could result in death. Some patrons even parked on the lawn of some homes. The homeowners put reflective markers at the curb of their

property. Every morning we would find debris on our lawn and in the street. Soda cups, ice cream containers, wrappers, straws and the like.

Now we are told that the newest tenant, "The Dugout Grill" is actually a Bar and Grill. Our quiet neighborhood will not be quite anymore. Besides all the previous problems we have had to endure, now we can add noise to the list. It has been said, they want to have a closing time of four o'clock in the morning. This is too much, None of these businesses have ever spoken to the residence of our community to advise us of their intentions.

LaGrangeville has enough businesses with liquor licenses in our neighborhood. Sonny's Restaurant as well as States Grill are a mile way both with big parking lots.

We respectfully request that the Town Of LaGrange does not allow a bar to open so close to small children and their families. The couple in the new house directly across the street from The Dugout Grill, have added a baby to their family. How would you like to raise a newborn child in that environment. All we hear from Town Hall is how they want to keep to rural feel to our town. They will not allow tall sign-age and do not want fast food establishments. Why then, will they allow so many bars in a small area, at the mouth of a residential area? Please do not turn our town into another Bronx or Brooklyn.

Thank you for hearing me out. Please advise us of any town meeting or assembly that has the matter on its agenda.

Sincerely,

Laurel & Steve Hacker