

Minutes of the Town of LaFayette Planning Board held July 15, 2003 at 7:00 p.m. in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette.

Present: James Nakas, Chairman
James Quartier, Member
Richard Markoff, Member
Andrew Peebles, Member
Barbara Lasky, Member

Recording Secretary: Mary Jo Kelly

Others Present: Karen Godsoe, Planning Board Attorney
Maureen Perrin, Attorney for Hege/Clemens
Mr. & Mrs. Elliott, Applicants
Mr. & Mrs. Haswell, Applicants
Mr. Winslow, Buyer of Elliott lot
Mr. Morris, Apulia Rd. property owner
Arlene Zink, Colton Rd.
Stanley Zink, Colton Rd.
Mark Clemens, Applicant
Andy Clemens, Persse Rd.

Chairman Nakas welcomed everyone to the July 15th Planning Board Meeting. He advised there are 4 items on the agenda. He asked for any corrections or additions to the June 17, 2003 Planning Board Meeting Minutes. There were none. The June 17, 2003 Planning Board Meeting Minutes will stand as submitted by the Secretary.

Chairman Nakas opened the public hearing for the following application:

CASE # 314 – Public Hearing for appeal of Lester and Beverly Elliott for a 2-lot subdivision of their property located approximately 1 mile south of the Route 20 and Berry Rd. intersection on the east side of Berry Rd. in an Agricultural/Residential District.

Chairman Nakas said this is a public hearing for anyone to speak who wishes to do so. He asked Mr. or Mrs. Elliot to discuss their plans briefly.

Mr. Elliott said they sent the driveway permit application in and are waiting to hear back from the D.O.T. They submitted a survey map prepared by Christopherson Land Surveyors dated June 11, 2003.

Chairman Nakas said the Board has heard back from County Planning on this and they would ask that the owner of Lot 2B must maintain the swale leading into the county culvert. This is to avoid any flooding that might occur. That was their only concern. He asked if they have gotten approval from the Health Dept.

Mr. Winslow, the proposed buyer, said it's still under review.

Chairman Nakas said the Board can conduct the public hearing and as soon as the applicant hears from the D.O.T. and the Health Dept. they can bring him the responses with the maps and he will sign them. He asked for any other comments or questions. There were none.

Member's Markoff moved and Quartier seconded the motion to close the public hearing. Motion passed unanimously.

Member's Markoff moved and Lasky seconded the motion to declare this Board lead agency, this is an unlisted action, a negative declaration in the SEQR process and to approve the Elliott 2-lot subdivision with the following conditions:

- 1) **The approval of the driveway from the D.O.T.**
- 2) **The approval of the septic from the County Health Dept.**
- 3) **The owner of proposed Lot 2B must maintain the swale leading into the county's cross culvert to avoid flooding on this site, the county's right-of-way and adjacent parcels.**

Motion passed unanimously.

Chairman Nakas opened the public hearing for the following application:

CASE # 316 – Public Hearing for the appeal of Mark Clemens for an amendment to the Clemens-Hege 2 lot subdivision map on the east side of Apulia Road at 2934 Apulia Road in an Agricultural Residential District.

Maureen Perrin asked if the Planning Board would waive the fees.

Karen Godsoe said this Board can recommend fees be waived but only the Town Board can waive them.

Member's Markoff moved and Quartier seconded the motion to recommend to the Town Board that the Application and Developer Deposit fees be waived but the applicant is responsible for any engineering or attorney fees incurred on this application. Motion passed unanimously.

Maureen Perrin submitted a survey map prepared by Denkenberger & Greene dated July 1, 2002 with revisions on: 9/4/2002, 3/14/2003, 4/17/2003, 6/6/2003 and 7/9/2003. She said this was a 2-lot subdivision which was originally filed. In the final filings of the map with the county, through historical research, an additional 10 acres was found to be owned by the applicant so the map was never filed with the county and it necessitated a new subdivision map be done. As a result thereof, the town requested a new application be filed.

Stanley Zink asked how this can happen.

Maureen Perrin said two surveyors disagreed on who owned the 10 acres. This is not uncommon when the borders are stated as apple trees, etc.

Stanley Zink is a neighboring property owner and he is concerned about how this could happen. There are deeds, etc.

Maureen Perrin said the surveyor made a mistake.

Stanley Zink said someone has been paying taxes on the 10 acres.

Maureen Perrin said the tax maps need to be redone too. The property next-door needed to be surveyed at some time. The applicant's property has never needed a survey in the past. Now it has and the two surveyors disagree on the ownership of the 10 acres. Through historical research it was determined that the applicant owns the 10 acres.

John Morris said he is the neighboring property owner and the owner of the 10 acres and currently there is a boundary dispute.

Chairman Nakas asked him if he felt the 10 acres belonged to him.

John Morris said he has a mortgage on his property which includes the 10 acres and this needs to be resolved. He has a map and survey that represent his investment last September. He was marking trees on the 10 acre parcel which he planned to have harvested valuing \$10,000. Mark Clemens saw his markings and called him. Currently, they are trying to figure out what's right.

Chairman Nakas said this hasn't been submitted to County Planning yet.

Maureen Perrin said based on all the title work they believe this is the Clemens-Hege property.

Stanley Zink came forward to view the map. He knows what the original boundary was as he grew up here. He is one of the boundary owners.

Member Peebles asked Mr. Zink if he thought he owned any of the 10 acres.

Stanley Zink said no. He is just here because if 10 acres can evaporate for someone, he wants to be sure it doesn't evaporate for him. He said the 10 acres was always part of the Hiscock property.

Mark Clemens said it went from the Hiscock's to his grandparents, the West's.

Chairman Nakas asked Mr. Morris where he felt the 10 acres belonged.

John Morris said he isn't sure.

Chairman Nakas asked how this is going to be resolved.

Maureen Perrin said she doesn't know how this is relevant to the Board.

Chairman Nakas said if this Board doesn't know where the real boundaries are, it would be hard for him to sign off on it.

Karen Godsoe said the Board doesn't want to sign off on a subdivision when they don't know the exact boundaries involved. Once these are resolved, this will need to be referred to County Planning.

Maureen Perrin asked who's disputing it.

John Morris said he is.

Stanley Zink said he is too. He doesn't understand how land can suddenly appear on someone else's tax map.

Mark Clemens said the surveyor of the neighboring property owned by John Morris used the tax map to do the survey which was incorrect.

Chairman Nakas asked if the county would resolve this.

Karen Godsoe said this is a property owner dispute and the Board might want to reserve its decision until it is resolved.

Maureen Perrin disagreed. It could take 3 years to resolve this.

Chairman Nakas said there must be a way for someone to absolutely determine the boundaries.

Stanley Zink said it would be in the deed.

Chairman Nakas said how about if we submit all this material to the town attorney's and rely on their advice on how to respond to this.

Mark Clemens said historically the Hiscock's and Zink's always bordered each other. It was this way back in 1876. How can they all the sudden not border each other because of the property in the middle?

Maureen Perrin asked Mr. Morris if he had a deed.

John Morris said yes but he didn't bring it with him.

Chairman Nakas said he is reluctant to sign off on something that is in dispute.

Stanley Zink said he is just trying to figure out how this got to this stage where the tax map and everything are incorrect.

Member Peebles asked who has been paying the taxes on the 10 acres.

John Morris said he paid the taxes on it last year. The prior owner has been paying the taxes on it for however long it has been this way.

Chairman Nakas asked if the people who have paid the taxes on this will be reimbursed if it's incorrect.

Karen Godsoe said that is not something this Board needs to be concerned with.

Stanley Zink said this is not the first time something like this has happened. Mr. Doyle had to go to the Supreme Court over a boundary dispute with the previous owner of the Morris property.

Maureen Perrin asked Mr. Zink if he had a survey.

Stanley Zink said yes.

Maureen Perrin asked if it shows the Clemens-Hege property bordering his.

Stanley Zink said yes. The survey was done in 1982.

Maureen Perrin asked if she could take a look at it sometime.

Chairman Nakas would like to submit all the items before the Board regarding this application to the town attorneys and have them recommend how this Board should proceed.

John Morris said there are 3 parties involved. He is involved, his mortgager is involved and the Clemens's/Hege's are involved. These 3 parties need to come to an agreement.

Chairman Nakas believes the 3 of them need to come up with something reasonable and then this Board would be willing to talk to them.

Maureen Perrin said her client isn't buying any land.

John Morris said he has a mortgager and if Mr. Clemens ever wanted to refinance that property, he would be denied as the property is owned by Mr. Morris.

Chairman Nakas said there was a mistake made somewhere along the line which needs to be corrected. Some work needs to be done. He would recommend, and if the rest of the Board agrees, to submit all the material to

Costello, Cooney & Fearon and they can get back to this Board with their recommendations.

Member's Markoff moved and Quartier seconded the motion to submit all the material before the Planning Board regarding this application to Costello, Cooney & Fearon to review and make a recommendation to this Board. Motion passed unanimously.

Maureen Perrin asked what the Board needs from her.

Karen Godsoe said her office will review the material submitted tonight and make a recommendation.

Member's Peebles moved and Markoff seconded the motion to continue this public hearing at next month's meeting. Motion passed unanimously.

Chairman Nakas said the next item on the agenda is:

CASE # 310 – Appeal of James T. Webb for controlled site approval of property located on the west side of Route 11 approximately ¼ mile north of the Sentinel Heights and Route 11 intersection in an Agricultural/Residential District.

There was no one present to represent this application. No action was taken.

CASE # 315 – Sketch Plan Conference for Walter and Elizabeth Haswell for a 2-lot subdivision of their property at 4340 Barker Hill Road located on the southeast corner of the Barker Hill Road and Smokey Hollow Road intersection in an Agricultural/Residential District.

Mrs. Haswell submitted a survey map prepared by Cottrell Land Surveyors dated July 8, 2003. They have sold their house and wish to subdivide their property and build a smaller house. They are proposing to split the acreage. They got permission from the Town of DeWitt for a driveway in a letter from them dated June 24, 2003. Leon Cook, LaFayette Highway Superintendent, told her she would have to get this permission from the Town of DeWitt.

Chairman Nakas said they have approval for the driveway. He asked if they had Dept. of Health approval for their septic design.

Mrs. Haswell said the septic design has been sent to the Dept. of Health but they have not heard back yet.

Chairman Nakas said the Dept. of Health will stamp the septic design plans if they approve them. Once they are approved, this Board will have to approve the subdivision map. He said the surrounding property owners must be named on the map.

Mr. Haswell said Mr. Alois owns all the surrounding property.

Chairman Nakas said the surrounding property owners names must appear on the map. He said the surveyor can do this for them. When the applicant has all its approvals, they can call him and he will sign the maps.

Member Peebles asked if there were any streams on the property.

Mrs. Haswell said no. She said there is a steep area in the back which they have tree's growing on.

It was determined a topographical map was not required for this application.

Mrs. Haswell asked if one of them needs to come to the Planning Board Meeting next month.

Chairman Nakas said this application will be scheduled for a public hearing so someone should be present to represent them. All she will need is this map with neighboring property owners names on it. He said this will be referred to County Planning.

Member's Markoff moved and Quartier seconded the motion to schedule a public hearing for this application at next month's meeting. Motion passed unanimously.

Chairman Nakas advised the Watson property on Sentinel Heights Rd. was accepted into the Ag. District.

Member's Markoff moved and Quartier seconded the motion to adjourn. Motion passed unanimously.

The Planning Board Meeting adjourned at 8:01 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary