

Minutes of the Planning Board Meeting held by the Planning Board of the Town of LaFayette on August 17, 2004 in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette at 7:30 p.m.

Present: James Nakas, Chairman
Andrew Peebles, Member
Barbara Lasky, Member
Bradley Bush, Member

Absent: Richard Markoff, Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, P.B. Attorney
Ron DeRollo, Applicant
Earl Smith, Applicant
David Broda, Jamesville Res. Pres. Association (JRPA)
Margaret Mueller, Applicant
Sheila Harrington, JRPA
Tony Marshall, Att.
Ann Chase, West Shore Manor
Katie Bolsei, JRPA
Karen Brower, JRPA
J. C. Brower, JRPA
Bonnie Seemann, JRPA
Paula Naselli, JRPA
Mike McLoughlin, Applicant
Sandra Smith, Councilman
Lynn Hutton, Applicant

Chairman Nakas called the meeting to order. He said the Board has a rather limited agenda tonight. He asked if there were any changes to the July 20th Planning Board Meeting Minutes. There were none. The July 20, 2004 Planning Board Meeting Minutes will stand as submitted by the Secretary.

CASE #335 - Continuation of appeal of Mr. DeRollo for a 2-lot subdivision of his property located at 4131 Route 91 approximately 1 ½ mile south of the Route 91 and Route 173 intersection in an Agricultural/Residential District. (Tax Map No. 001.-05-13.2)

Chairman Nakas said we have held a public hearing on this application.

John Langey said it was denied at some point but with leave to reopen at a future date. The Board is in receipt of the letter from the D.O.T. dated July 1, 2004, and signed by Scott Bates which is what they were waiting for. The county recommended modification to the driveway stating they didn't want to see the two driveways on Lot # 2. A letter was received from the D.O.T. stating that if the applicant shows the looping driveway on Lot # 2 proving the new driveway just services Lot # 1 then they would be O.K. with this.

Chairman Nakas asked Ron DeRollo if he could comply with the recommendations of the D.O.T. Ron DeRollo showed the Board an updated survey.

John Langey said apparently they want to see a separate driveway for each lot.

Ron DeRollo explained where he is proposing to put the driveway. He asked if he could get a variance allowing him to have less than 60' for the one driveway. It would still be a separate driveway but would be about 16-20' in width. He can go either way with it but it would be easier for him not to have the 60' of road frontage.

John Langey said he would have to go to the Zoning Board of Appeals for a variance. That would be a separate application to a different board. He can apply for this. He doesn't know if the Zoning Board of Appeals will approve it or not.

Member Peebles asked if they wanted the driveway moved over or can the applicant have two driveways.

Ron DeRollo said he can have two.

John Langey said if the Planning Board decides to approve this tonight, he would recommend that they make a condition that he come into compliance with the D.O.T. letter. He would have to show a survey showing what the D.O.T. is asking for.

Ron DeRollo said it would be much more expensive.

John Langey said they want some sort of separation to make it distinct from the other driveway but you must be careful not to deter the sight for cars coming in and out. The Board can't approve the existing map as it's not in compliance with the D.O.T. The Board would need a new map that would show the applicant is complying with the D.O.T.'s request or the applicant can go to the Zoning Board of Appeals to request a variance of the 60' road frontage.

Ron DeRollo asked how long that takes.

John Langey said about 2 months.

Ron DeRollo said then he would be back before this Board in 3 months. Would he have to start with a sketch plan again before this Board?

John Langey said no but he would have to go for a sketch plan and a public hearing before the Zoning Board of Appeals. He advised the applicant should be sure to call the D.O.T. to be sure they understand what he is trying to do in case they won't approve it.

Ron DeRollo said he did discuss this with them and they said if he got a variance, they didn't see a problem with this.

CASE # 337 - Sketch Plan Conference for appeal of John & Sandy Kinsella for a 2-lot subdivision of their property located at 6230 Smokey Hollow Rd. approximately 1 mile east of the Barker Hill Rd. and Smokey Hollow Rd. intersection in a Residential/Multi-Family District. (Tax Map No. 001.-03-23.1)

Tony Marshall was the attorney representing the Kinsella's. He submitted a map dated 7/9/2004 and prepared by Environmental Design and Research, P.C.

Chairman Nakas asked how large the parcel is.

Tony Marshall said a couple of hundred acres. They pulled a permit to build a pole barn and the plans changed significantly enough to cause the Code Enforcement Officer to site them and issue a Stop Work Order. The Kinsella's contacted him and they decided a subdivision would be the way to go. The Stop Work Order was lifted as they advised the Code Enforcement Officer they would be applying for a subdivision.

Chairman Nakas said so they have been building for all of May, June and July. That is not right. He asked if usually people don't get the subdivision first.

Tony Marshall said yes. In this case the Code Enforcement Officer said as long as they submitted an application for a subdivision they could continue building. They don't intend to have anyone living in this structure. They have a large family who live out-of-town.

John Langey asked if the Code Enforcement Officer indicated to the Kinsella's that they needed some kind of road frontage.

Tony Marshall said they are proposing to share a driveway.

John Langey said under the subdivision regulations, it must have 60' of road frontage. He asked about the two other lots shown on the map and asked if they were done without subdivision approval. He asked if the two pieces of property shown on the map were previously subdivided.

Tony Marshall said the driveway is about one mile long

Chairman Nakas said the driveway for the 12 acre parcel is not shown on the map. He said there is no road frontage shown and the applicant is proposing a shared driveway.

Tony Marshall said their intention is to subdivide because they overbuilt so they need to comply with code in that regard. They would be more than willing to put a covenant in the deed that they couldn't sell it independent of the larger parcel.

Chairman Nakas said we have a certain number of rules and regulations for a subdivision.

Tony Marshall understands what he is saying. Their intention in doing what they did was that they were building a garage and it wouldn't take much more to put a living quarters above it so the kids had a place to stay when they came over. They would never sell the larger parcel without selling this one with it.

Chairman Nakas asked if ownership of the 12 acre parcel would transfer to someone else.

Tony Marshall said they would put a covenant in the deed that they would be forever tied together. They are subdividing because the code reads you can't have more than one dwelling on a parcel.

Chairman Nakas said they would retain ownership of the 12 acre parcel.

Tony Marshall said if the Board wishes, they would covenant that if they were to sell the one parcel, it would have to be packaged with the other parcel.

Chairman Nakas said isn't it a bad thing to create a separate lot that has no road frontage of its own.

Tony Marshall said we have a home owner who wants to have their property benefit their extended family and this is one way they can do it.

Chairman Nakas asked if the county would accept this subdivision of a separate parcel with no road frontage.

John Langey said they would recommend denial.

Member Peebles said this Board can't approve this subdivision.

John Langey said this Board can't grant this subdivision legally. The problem will be very poor equities in their favor when they went ahead and built the structure.

Tony Marshall said the equity to counter-balance is they continued construction since the April/May period with consent of the Code Enforcement Officer.

Chairman Nakas asked if the work is all done now.

Tony Marshall isn't sure.

Chairman Nakas said it's probably done by now.

Tony Marshall showed the Board a letter from Ralph Lamson dated April 21, 2004 lifting the Stop Work Order. He is not clear on what the Code Enforcement Officer would do if the Planning Board didn't approve this.

Member Peebles said on lots of this size, which is 200 acres, the county may ask for a build-out plan.

Tony Marshall said they don't plan any future lots.

Member Peebles said this Board would like to see that and any thoughts on internal roads.

Tony Marshall said they can certainly incorporate road frontage. The proposal would be to share the driveway which is one mile long. The fact of the matter is, in any particular calendar year, the people on the road would be the two homeowners.

Chairman Nakas said once you have subdivision approval, the applicant can sell this lot to whoever they choose.

Tony Marshall said they have no intent to subdivide further or sell the parcel.

Chairman Nakas said that is now but in 30 years it could change.

Tony Marshall said they would put a covenant in the deed that would go with the land.

Chairman Nakas said there is a liability issue to the town.

Tony Marshall said Chairman Nakas is absolutely correct if the applicant was subdividing to sell the property. This is not their intent nor will it be. The only thing he can offer in that regard to the Board is that covenants will be put in the deeds that the parcels will not be separated. One would not be able to be sold without the other one and that they cannot be used as rental property. The applicant is willing to do whatever the Board requires.

Chairman Nakas said at this point, they have to come up with another map and must show contour lines.

Member Peebles said it must show all the structures on the parcels too.

John Langey said along with the well and septic.

Member Peebles said and any ponds.

John Langey said the Board also needs to see if two of the lots shown on the map received previous subdivision approval.

Member Peebles said he would like all structures shown that are on the property.

The sketch plan will be continued in September.

Sketch Plan Conference for Michael McLoughlin for roof alteration at McDonalds.

Mike McLoughlin introduced himself as the owner of McDonalds. McDonalds's has asked to change the color of the roof and the roof material to metal to meet their standards which now come out of Philadelphia.

Chairman Nakas said he read through some of the resolutions and a colonial facade was required.

Mike McLoughlin wasn't sure what the standard was.

Chairman Nakas said he read through all the material from the Zoning Board of Appeals and Planning Board but he didn't see anything about roofing, design or colors.

John Langey said in the resolution dated October 5, 1990, #8 reads "Petitioner shall construct the restaurant pursuant to the plans and specifications approved by the Board, specifically, the exterior of the restaurant is to be constructed with a colonial facade;"

Chairman Nakas asked if he plans on changing the design of the roof.

Mike McLoughlin said no, that's the trademark.

Chairman Nakas isn't sure this Board would have any jurisdiction on this matter.

Mike McLoughlin said they will be changing the roof from shingle to metal. He would like it to still have the shingled look.

John Langey said when Mike McLoughlin was here last time, the property was in a different zoning district. It's now in the Hamlet District so it should go to the Zoning Board of Appeals and not the Planning Board. There might be a referral to the Planning Board for their recommendation. He would recommend the applicant tell this Board what he wants to do. He would recommend finding the original plans to see what they are and the applicant should go before the Zoning Board of Appeals. Restaurants require specific permit in the Hamlet District which is where this would fall. It sounds like you will stay within the existing parameters of the existing roof. The color and material will change.

Member Peebles asked what the color would be.

Mike McLoughlin said McDonald's would like red and he would like copper tone.

Chairman Nakas asked if this Board could go on record now with a recommendation.

John Langey said yes.

Chairman Nakas said this Board would be in support of this alteration with a metal earth tone color such as copper tone in metal with a shingled look. The total Board was in agreement with this statement.

John Langey will do a letter discussing this resolution and explain it to the Zoning Board of Appeals.

Sketch Plan Conference for Subdivision of property owned by Lynn Hutton.

Lynn Hutton said he had a person who wants to buy a large parcel of the land on Summer Ridge. He has a purchase contract for Lot # 1 and Lot # 2 pending getting the subdivision. It's a group of attorney's who want to buy this. They want the upper parcel strictly for recreational use.

Chairman Nakas asked if the northern boundary of Lot # 2 borders the Onondaga Nation.

Lynn Hutton said yes. The fellow who is buying Lot # 1 is part of the group of attorney's buying Lot # 2 but he wants to build his house on Lot # 1. The lots exist and he just wants to change their dimensions.

Member Peebles asked if originally there wasn't plans for the road to continue through these lots.

Lynn Hutton said he's had buyers come and so he's not going forward with those plans.

Member Peebles said now we have ourselves a big cul-de-sac that will stay there.

Lynn Hutton said basically the road would terminate there.

Member Peebles said we have regulations on how long a cul-de-sac can be.

Chairman Nakas thinks it's like a dead-end.

John Langey said it's a cul-de-sac. It does exceed the cul-de-sac length. He believes it was allowed as the plans showed a continued construction of the road.

Lynn Hutton said the economy is bad and he doesn't know if he can actually put the rest of that road in at this point.

Member Peebles said without the road, it doesn't conform to regulations.

Lynn Hutton asked if they are saying he can't sell the land.

Member Peebles said no. It would need a road as originally proposed.

Lynn Hutton knows there have been cul-de-sac's. He has someone who wants to buy the property and build one house.

Member Peebles said subdividing it in this form would leave it not in conformance with the regulations. An applicant before this Board had to change his plans quite significantly a few months ago to bring his proposal into compliance.

Lynn Hutton doesn't know how he can do what the Board wants.

Member Bush said if you look at the whole picture, it's a cul-de-sac from Webb Road up which has been there for about 50 years.

Member Peebles said there is a much greater density at this end of the road.

John Langey said the purpose of the sketch plan conference is to give the applicant input from the Board.

Chairman Nakas said if he were to sell the two parcels then he would retain no additional land in that area.

Lynn Hutton said he still has lots to be sold up there.

Chairman Nakas asked if they are already approved lots.

Lynn Hutton said all but Lot # 3 are.

Chairman Nakas said Lot # 2 would not be a building lot.

Lynn Hutton said that is his understanding. They did mention at one time that one of the guys might want to build a house up there.

Chairman Nakas said Lynn Hutton would have to know this because otherwise the map would have to state "Lot # 2 is not a building lot".

Lynn Hutton asked what the problem with it being a building lot would be. It would have road frontage.

John Langey said Leon Cook would have to sign off on driveways for the lots.

Chairman Nakas asked how much it would cost to finish the proposed road.

Lynn Hutton said it cost him about \$150,000 to extend Naomi. He would have to guess he would be looking at somewhere in that neighborhood. There's a pretty substantial drop coming down. He can't imagine it would be any less than \$150,000. Everything is going up in cost.

Chairman Nakas asked if there is a cost per foot.

Lynn Hutton said not that he's aware of.

Member Peebles said with this amount of density on this cul-de-sac, the Board wouldn't have approved it without knowing the plans called for a road to come through.

John Langey would like John Dunkle to review the map and sign off on it. There's a retention basin at the end of the road.

Lynn Hutton said people want to close on this. He just came in to see if this is a 4-lot subdivision.

John Langey said actually it's a 6-lot subdivision.

Lynn Hutton asked if this would be a major or minor subdivision.

John Langey said any subdivision containing 5 or more lots is a major subdivision.

Lynn Hutton said he needs to get a feeling whether there's a possibility he can do this.

Chairman Nakas said the Board will definitely have a question on the cul-de-sac. Maybe the next step is to produce a better map for the Board to see. He also needs to get with Leon Cook and John Dunkle.

John Langey said the Board needs to see how they will access Lot # 1. You are talking about using a hammerhead as a point of access. You need to know the impact this will have on drainage.

Lynn Hutton asked the Board if they think he will be able to do this.

Member Peebles said this Board has concerns.

Chairman Nakas said he would be interested in knowing from the fire department if they are comfortable with the single access all the way up to the end of Naomi.

This will be continued as a sketch plan conference in September.

**Sketch Plan Conference for zone change request from
Agricultural/Residential to Commercial for property located on the
southeast corner of the Route 20 and Tully Farms Rd. intersection
owned by Margaret & James Mueller. (Tax Map No. 021.-03-09.1)**

Margaret Mueller said they don't own the property at this time. They won't buy it unless they can move their business there.

John Langey asked who owns it now.

Margaret Mueller believes Northeast Lumber Company owns it.

John Langey asked if Northeast Lumber Company made an application to the Town Board for a zone change.

Councilwoman Smith said no.

Margaret Mueller said Northeast is in the process of selling the property to Mr. Daley who would sell it to her. The mortgage is held by Mr. Markes.

Chairman Nakas asked if they currently own Magnolia Garden, Ltd.

Margaret Mueller said yes.

Chairman Nakas said the letterhead gives 2850 Route 11A as their business address.

Margaret Mueller said that is where they run the business from but they just have an office there and store the trucks there.

Chairman Nakas asked if they are currently running the business out of the house.

Margaret Mueller said it's really just partly there. They usually have to go get the material.

Chairman Nakas said where they are, it's zoned Agricultural/Residential and it wouldn't be good to run a business from an Agricultural/Residential District.

Margaret Mueller said she guesses they could say they are running the business from there. In the last year they realize they have outgrown the property. They have been looking for a building to move to.

Chairman Nakas asked if they would build a structure.

Margaret Mueller said no.

Member Peebles said you should really have approval for running the business from your home now.

Chairman Nakas said you are really running a business out of your home which requires a controlled site approval.

Margaret Mueller said they started with one truck and it's grown over the course of one year. They always thought this would be a nice place.

John Langey said this is on referral from the Town Board. They are considering doing this and would like input from the Planning Board.

Member Peebles asked where the egress would be.

Margaret Mueller said right now it's on Tully Farm Extension. Eventually they might like to get it on Route 20 too. They don't necessarily need one onto Route 20. Eventually they would want to put a greenhouse on the property. It wouldn't be a greenhouse to sell out of but to grow the stuff for her business. Would that be a problem?

Chairman Nakas asked if everything on the north side of Route 20 between Field Lane and Tully Farms Extension is zoned Agricultural/Residential.

It was noted it is all zoned Agricultural/Residential.

Councilwoman Smith said one concern of the Town Board was the size of the lot and if it is a legal lot size.

John Langey said the Board doesn't have a survey so they can't determine this. He noted the lot is an existing lot.

Member Bush asked if this Board had issues with this property previously.

John Langey said yes. Someone came in looking for permission to run a sawmill. He withdrew the application.

Member Bush asked if that was based on neighborhood opposition.

John Langey said not. It was due to the laws and regulations.

Chairman Nakas said at one time there was a request to move the car auction down to the area of Field Lane and Route 20 and it was strongly opposed. The zone change was denied.

Member Bush said the map shows a dug well with water lines to the concrete building. Will water be an issue?

Chairman Nakas asked if this well supplies water to the concrete building.

John Langey asked if the people who own it will go along with this.

Margaret Mueller asked if the Board changes this zoning, will it be just for the use she is proposing?

John Langey said once you change this, you change it for anything allowed in the commercial district with approval. The Town Board wouldn't be able to change the zoning without some sort of letter from the actual owner requesting the change.

Margaret said this owner would have to write a letter stating they are requesting the zone change.

John Langey said some sort of notarized document requesting it would be O.K.

The Planning Board has reviewed the documents and has the following comments:

- 1) Margaret Mueller is not the current owner.
- 2) The Board has some concern regarding which road would access this property.
- 3) The Town Board should be aware that approving this zone change allows any approved commercial uses to be on this lot.
- 4) Some of the other properties in the area are being used for commercial uses.
- 5) Some of the other areas are Agricultural/Residential which seem to surround this property.
- 6) There is concern with regard to lot size for the proposed use and in general.
- 7) The Town Board should request an updated survey for the property with legal descriptions.

Chairman Nakas said two major things to keep in mind would be the owner would have to eventually make the petition and secondly he thinks the Board would be very reluctant to have the entrance off of Route 20. This Board required the sports complex to have access off Tully Farms Rd. and not Route 20.

Margaret Mueller said the person who is supposed to be buying it from Northeast Lumber is the one who would be selling it to her. They can get a letter from him.

John Langey asked if she has any idea when the closing might take place.

Margaret Mueller didn't.

Chairman Nakas asked if there would be a public hearing on this.

John Langey said yes.

Margaret Mueller asked if the public hearing would be next month.

Chairman Nakas said she has to address all the mentioned items.

John Langey said she can't really go before the Town Board without a notarized request from the owner.

Sketch Plan Conference for Earl Smith for a 3-lot subdivision of old B & B Lumber Subdivision on LaFayette Rd.

Earl Smith said his hopes are to purchase a piece of property from John Crawford. He would like to convert its use. It would be Lot # 3 of the B & B Lumber Subdivision. He would like to subdivide the parcel into 3 lots. There's 43 ½ acres. He would like to know he can put 3 houses in there.

Chairman Nakas asked how the 3 homes would have access.

Earl Smith said off of LaFayette Rd.

John Langey asked if he had talked to the D.O.T. regarding sight distance for 3 new driveway cuts.

Earl Smith explained the way he'd like the 3 lots to join. Two lots would share a driveway.

Member Peebles said an internal road would have to be done.

Earl Smith asked if a shared cul-de-sac could be put in and they all go into that.

Member Peebles said yes.

John Langey said you must agree with the town specs and see if Leon Cook, the Highway Superintendent, is O.K. to plow it. Each driveway must have 60' of road frontage. He suggested Earl Smith meet with the neighbors to show them what he is proposing.

Residents from the Jamesville Reservoir Preservation Association were present to see if any new information has been submitted for the Grove.

Chairman Nakas said he hasn't heard anything other than Phase 1 and Phase 2 were in process. A resident asked if there are archeological findings in the Phase 1 process, do they go to Phase 1B?

Chairman Nakas believes so. This Board will rely heavily on the involved agencies. There's conflicting information regarding the authority of the agencies involved.

Ann Chase asked if it was requested that they do a Phase 1B.

Chairman Nakas believes this Board would be told how to proceed.

Member Peebles said someone will read the 1A study and decide whether or not the applicant needs to go on to Phase 1B.

John Langey said this Board could request they move to the next step if they feel it is merited. He would like John Dunkle's input.

Chairman Nakas would like the decision to come from Albany.

A resident asked how they would go about requesting a rezoning of the entire area.

Chairman Nakas said that would have to take their request to the Town Board for this.

A resident asked how involved it would be.

John Langey said it's pretty involved. It would be up to the Town Board.

Member Bush asked what their goal would be to change it to.

John Langey said right now it's zoned Agricultural/Residential. They could only change it to Business, Hamlet/Mixed Use, Industrial, or Residential/Planned Cluster.

A resident asked if there could be a separate zoning district for the reservoir.

Member Bush asked what they would want to change it to.

Ann Chase said they are thinking ahead.

A resident said something so there isn't a lot of houses with access to the water.

John Langey doesn't know if a town could legislate the ability for private landowners to deny them access to the water.

Ann Chase asked if they could change the size of the lot requirements.

John Langey said they could suggest this.

Ann Chase said her understanding is that the Planning Board can demand further studies on the Grove.

John Langey said the Board is asking the involved agencies what they want. He will write a letter regarding the studies.

A resident said the letter from SHIPO in February stated they have concerns with this being on Indian ground. Shouldn't the developer have been responsible during the DEIS to bring this to the Board's attention?

John Langey said the developer said they never got those enclosures. When he talked to the state, they agreed they didn't enclose anything with the developer's letter. He can't comment on what they did or did not receive. The state said they messed up and didn't give those attachments to the developer.

Ann Chase asked how it got in the DEIS.

John Langey said they voluntarily put it in.

Member's Lasky moved and Bush seconded the motion to adjourn. Motion passed unanimously.

The Planning Board Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary