

Minutes of the Planning Board Meeting held by the Town of LaFayette Planning Board on April 18, 2006 in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette at 7:00 PM.

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

Recording Secretary, Mary Jo Kelly

Others present: John Langey, Town Attorney
Shawn Adam, Alt. Member
Tim Brayman, JTHOA
Mark Fulmer, JTHOA
Jeffrey Cohen, Applicant
Joe Jerry, Applicant Att.
Paula Naselli, JRPA
Rick Haskins, JRPA
Timothy Wales
Kyle LaTray
John Verzosa
Sheila Harrington
Stacie Stroup
Jane Praetorius, JRPA
Ralph Lamson, CEO
David Duell, Applicant
Joe DeBottis

Chairman Nakas called the meeting to order at 7: 00 P.M. and welcomed everyone. He advised we have a rather abbreviated agenda this evening. Cases 366 & 367 which were applications from Dusan Janak and Jeff Keeler will be put on the May agenda because both applicants were not able to get their maps prepared in time to be submitted to the county to be ready for this meeting. Case 364 by Paul Zumpano was not able to get the necessary information to John Dunkle, the Town Engineer, for him to sign off on the drainage issues involved with this matter. Until he gets all the data from Paul Zumpano's engineer, he cannot make a determination.

CASE # 368 Public Hearing for application of David Duell to resubdivide property located on the east side of Bella Vista Dr. approximately 2/10 mile north of the Bella Vista Dr. and Mondore Dr. intersection in an Agricultural/Residential District. (Tax Map No.'s 024.-03-10.0 and 024.-03-09.0).

Chairman Nakas asked David Duell to come forward and explain what he is trying to do and then to answer any questions from the public.

David Duell said he is planning to build a 3 bedroom house. He is proposing to take two ½ acre lots and combine them into one lot so he can have a septic and proper drainage.

Chairman Nakas said the size of the new lot is 1.1 acres. He had one question on the title on the map dated March 31, 2006 and prepared by Christopherson Land Surveyor. On the title it reads Lot 31A and on the map it reads Lot 30A.

David Duell said he isn't sure which it should be. His lawyer is looking into it to see what the numbers should be.

Chairman Nakas said even though this will still be a substandard lot as it's less than 60,000 square feet, it is permitted as he is increasing the size of the lot.

John Verzosa asked if they went off of his survey markers.

David Duell said no. The surveyor went off of Bella Vista Dr. as the other markers are not correct.

John Verzosa said he just wanted to know where the property line was.

Member Peebles asked if he sees this as a property dispute. He gave John a copy of the map to review.

John Verzosa said he doesn't see it as a dispute.

Joe DeBottis said he owns the property to the south of this. He supports the joining of the two properties. The applicant is putting the septic field next to his property and the house down a little further which will be more conforming with the existing houses. The applicant has taken into consideration the people and neighbors in the area.

Chairman Nakas asked how far it is from Joe DeBottis' well to the applicant's septic system.

Joe DeBottis said probably 150' – 300'.

Chairman Nakas asked if there were any other questions from the public. There were none.

Member Peebles asked where the applicant is proposing to put the house.

David Duell showed him on the map.

Member Peebles noted it meets the town setback requirements.

Chairman Nakas asked for any other questions or comments from the Board.

There were none.

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

Chairman Nakas said this application did not have to be submitted to County Planning as it is not within 500' of a state or county road.

John Langey went through the Short Environmental Quality Review with the Board. There were no environmental concerns.

Member's Markoff moved and Bush seconded the motion to make this Board Lead Agency, this is an unlisted action and a negative declaration in the SEQR process and to grant preliminary and final plat approval for resubdivision of Tax Map No.'s 024.-03-10.0 and 024.-03-09.0. Motion passed unanimously.

John Langey said the Board received some correspondence from the residents and a letter from the applicants attorney regarding the Cohen application. On September 20, 2006 there was an approval of the preliminary plat for the subdivision subject to a number of conditions. The Planning Board received a letter from the applicants attorney

dated April 11, 2006 stating they have now finally closed on the land they had to acquire from the State of New York and will meet the remaining conditions. The applicant is in the audience tonight and there are residents from the Grove area who have questions regarding the applicant missing the deadline for the final plat submission. The town law seems to be the most appropriate to review regarding this matter. Under Section 276 Subsection 5 H, it reads: "Revocation of approval of preliminary plat. Within six months of the approval of the preliminary plat the owner must submit the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat may be revoked by the planning board..." If the Planning Board were so inclined and gave reasons for it, they could revoke the previous approval. The applicant has sent a letter asking for it not to be revoked and they are ready to go forward. This is totally up to the Board to decide. If the Board decides they are not revoking it, he doesn't know if they have to make a decision tonight.

Chairman Nakas asked when the Board would have to make a decision.

John Langey said it doesn't state a time in the statute. He asked how long of an extension the applicant would need.

Joe Jerry said the only reason that they are here and they wrote the letter is to indicate they are going forward in good faith based on their preliminary plat and to show the work that has been done. They had heard some talk that this Board was going to be encouraged to revoke their initial plan. He knows the Board knows they have spent an incredible amount of time and money on this application. It was a very expensive commitment they had to make to the State of New York. They would like to file their final plat tonight. The only reason they are not in a position to file it tonight is that their engineer, as of this morning, was still awaiting a reply from the county in relation to some of the engineering signoffs they had to have. Their engineer has been in constant contact with the Town Engineer. He is led to believe they are almost in a position to file the final map. He has also spoken to the Town Attorney and Mr. Langey about filing a petition for a drainage district. He doesn't know how long it takes to form a drainage district. He was told it will require a resolution and a public hearing, etc.

John Langey said it will probably take about 2 months.

Joe Jerry said to be able to do the total windup, they would request 3 months extension. They are really upset that they missed filing the final plan. When they do file the final map, they are asking for the Board to determine the final plan as final with the condition that the Town Board approves the drainage district.

Chairman Nakas asked if the 3 months would run from March 20th.

John Langey said giving a certain amount of months would be beneficial. The statute doesn't say you have to or don't have to put a particular number of months on it. By stating a number of months, it would be of benefit to the applicant so he knows a time-frame.

Chairman Nakas asked if it would start from tonight.

John Langey said it's up to the Board.

Member Peebles asked what the process will be.

John Langey said the Board wants to see at the time of the filing of the final map that all the conditions stated have been met. He would expect to get a letter from Ed Keplinger stating the conditions and how they have been met. John Dunkle would certify that they are all set. They would get on the agenda and then the Board would go

through a normal final plat approval process. It will have to be satisfied to the Board's satisfaction. The Town Engineer will help with this.

Member Lasky asked if the main reason for the delay was the purchasing of the land from the state.

Joe Jerry said yes.

Chairman Nakas confirmed the blue line issue has gone away.

Joe Jerry said yes.

Tim Brayman asked if he could make a comment.

Chairman Nakas told him to go ahead.

Tim Brayman said due to the contentious nature of this entire proceeding, there were very specific rules set down at the very beginning. Some rules have been changed, i.e. cul-de-sac lengths. He personally believes they have had plenty of time to take care of things. What's the sense in having these rules if they are not going to be followed?

Member Bush said if the Board denies the applicant tonight, they will resubmit the application tomorrow and it will probably be the same application.

Tim Brayman said that is the rule. Wasn't a time limit specifically mentioned in the conditions of the preliminary plat approval?

John Langey said he believes it says it will comply with the town law which is the section he read which makes it up to the Planning Board to decide. It's not an automatic termination. The Planning Board must move on it whether to extend the time or revoke it.

Member Bush said his opinion is that this Board has a lot of time into this already and they are hopefully going to attempt to get a final plat approval. He doesn't see a problem with extending the time for now.

Chairman Nakas asked for how long?

Member Bush said he would have an indefinite period of time on it.

Tim Brayman asked if that is permissible.

John Langey said yes. The problem is you could reach 3 years and the environmental situation may change. The Board can always have the ability to go through the SEQR again. The Board can state they will extend it for 3 months and during that time may decide to extend it further if it doesn't look like the applicant will be ready within the 3 months.

Chairman Nakas would tend to agree with Member Bush but would tend to think there should be a defined time.

Member Peebles asked since the Board has approved the preliminary plat, what has changed for all the work that we have gone through on the final review? Nothing. He does believe there should be a time limit on it as new applications come before this Board monthly and they could change the way the Board looks at this application.

Member Lasky thinks 3 months or 90 days is reasonable.

Chairman Nakas said so it would be 3 months from today.

Member Markoff agrees too but believes there should be a limit on it. If there is just cause, it could be extended further but if not, it could be revoked.

Member's Markoff moved and Bush seconded the motion not to revoke the September 20, 2005 resolution approving the preliminary plat approval for a period of 3 months and at the end of that time, the Board may reconsider revocation under Town Law Section 276. Motion passed unanimously.

There were a couple of corrections to the March 21, 2006 Planning Board Meeting Minutes. Others in attendance were Gregory Scammell, Shawn Adam, and Jim Damiano. On Page 4 “swell” should be changed to “swale” and on Page 5, “stare” should be changed to “start”.

Member Peebles moved and Chairman Nakas seconded the motion to approve the Minutes as amended above. Motion passed unanimously.

Member’s Markoff moved and Bush seconded the motion to adjourn. Motion passed unanimously.

The Planning Board Meeting adjourned at 7:28 p.m.

Mary Jo Kelly,
Secretary Planning Board

Adopted 5/16/06