

Minutes of the Planning Board Meeting held by the Town of LaFayette Planning Board on August 19, 2008 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
Richard Markoff, Member
Brad Bush, Member
Shawn Adam, Member
Bill Turner, Alt. Member

Absent: Barb Lasky, Member

Recording Secretary, Mary Jo Kelly

Others present: John Langey, Planning Board Attorney
Rod Nichols, Applicant
Carleen LaRonde
Dennis LaRonde
Tom Clarke
Sandra Clarke
Greg Watson, Applicant
Janice Watson
Margaret Klotz
Flora Pond
Helen Lea
Barb Lea
Scott Daley, Applicant
Suzanne Eaton, Applicant
Steve Eaton, Applicant
Jon Foster
Bob Capone
Mary Ann Capone
Chuck Olmsted

Chairman Nakas welcomed everyone and called the meeting to order at 7:02 p.m. He noted there are 4 public hearings.

CASE # 388 - Public Hearing for Scott Daley for a 4 lot subdivision of his property located on the north side of Route 20 approximately 930' west of the Route 20 and Apulia Rd. intersection in an Agricultural/Residential District. (Tax Map No. 010.-02-13.0)

Scott Daley was present. He submitted a map prepared by Chistopherson Land Surveying dated 4/16/08 titled "Skyridge Acres". He is proposing a 4-lot subdivision. He has received New York State D.O.T. approval for driveways.

Chairman Nakas said there is a large map up front if anyone would like to look at it. He said it's a 4-lot subdivision. He noted the lots measure 6 acres, 2 acres, 1 ½ acres, and 2 ½ acres. His confusion is that when this was submitted to County Planning, they didn't like the fact that there was going to be driveways proposed onto Route 20 yet the applicant has approval from the New York State D.O.T. for 4 driveway cuts onto Route 20. He asked John Langey about this.

John Langey said County Planning recommended denial of the application. To have this overturned, 4 of the 5 Board Members must vote to overturn County Planning's recommendation. They reference the driveways and recommend a 60' right-of-way to provide access from each proposed lot to Route 20. He doesn't understand this as the D.O.T. approved it. County Planning would rather have a road built and access the 4 lots that way. He asked Mary Jo if County Planning knew the D.O.T. had approved the driveways.

Mary Jo said no. She received the D.O.T. approval letter from Kelly A. Billion dated 12/3/07 after County Planning had responded.

Chairman Nakas asked the applicant if he wanted to have 4 driveway cuts.

Scott Daley said yes as all of his money is tied up in the subdivision.

John Langey said County Planning also mentioned this is in the MS4 area.

The Board reviewed the MS4 map which doesn't appear to show this area on it.

Member Adam said it's not clear what County Planning is saying.

John Langey said he will check with County Planning to see what they meant by their recommendations and he will talk to Mark Parrish regarding the MS4 area.

Chairman Nakas asked for any other questions or comments.

Dennis LaRonde asked where this stands until the information is found out.

Chairman Nakas said the public hearing will remain open until the next Planning Board Meeting when the information has been obtained.

John Langey asked if there is anything else the Board would like him to look into.

Chairman Nakas said he would like some clarification regarding the 60 foot right-of-way as we have a letter from the State D.O.T. saying the driveway cuts would be O.K. He asked for any other questions or comments.

There were none.

Chairman Nakas said we will continue the public hearing next month and will hopefully be able to wrap everything up at that time.

CASE # 400 - Continuation of Public Hearing continued for modification of Controlled Site approval for Greg Watson for property located at 2872 Route 11 North approximately 1 ½ mile north of the Route 11 and Route 20 intersection in a Business District to operate a nursery/landscaping business and storage building. (Tax Map No. 022.-06-01.2)

Greg Watson was present. He said the plan was approved to operate a landscaping business in January 2007 and certain restrictions were put on the property. He would like to modify some of the restrictions.

John Langey said all conditions were carried over from a previous approval.

Chairman Nakas said there was a transfer of ownership.

Greg Watson submitted a deed dated 7/16/08 showing transfer of ownership. He had 4 conditions he would like modified.

- 1) Under the existing conditions, Petitioner shall not sell nursery products from the property. He is requesting a modification that will allow him to sell nursery products from the property.
- 2) Under the existing conditions, Petitioner is allowed to operate the business between the hours of 7 A.M. and 5 P.M. on Monday thru Friday, and between 8 A.M. and 12 P.M. on Saturdays. He is requesting a modification that will allow him to operate the business between the hours

of 7 A.M. and 6 P.M. on Monday thru Friday, 8 A.M. and 4 P.M. on Saturdays, and 10 A.M. and 2 P.M. on Sundays.

- 3) Under the existing conditions, Petitioner shall install only one outside light for security purposes. He is requesting a modification that will allow him to install three outside lights; one at the south side of the building above the overhead doors, one on the east side of the building above the office entrance and one on the west to illuminate a business sign.
- 4) Under the existing conditions, Petitioner shall store only peat moss and mulch outside the building. He is requesting a modification that will allow him to store any and all inventory necessary for the operation of a nursery/landscaping business outside the building.

Chairman Nakas said the applicant already has Controlled Site Approval and just wants to modify it.

Greg Watson said yes. He would like to remove some of the restrictions placed on the previous approval.

Member Markoff asked if he would basically be storing trees, plants, etc.

Greg Watson said stone, mulch, wall block, etc. It would be anything he uses in the landscaping business. Most of the stuff you won't be able to see from the road.

John Langey noted County Planning recommended the applicant provide an engineering study to verify to the New York State D.O.T. that the proposed development would not create additional stormwater runoff into the state's drainage system.

Member Bush said the site has been thoroughly looked at already.

John Langey noted County Planning says the applicant should obtain a highway work permit from the New York State D.O.T. for a minor commercial business.

Member Bush said they have already moved the driveway.

Chairman Nakas said they also made a point about 100' wetland buffer.

John Langey believes they are maintaining that. If they fail to maintain it, the D.E.C. will be involved.

Greg Watson said they will be maintaining it.

Chairman Nakas asked if there would be any more construction.

Greg Watson said no.

John Langey said that could be a condition.

Greg Watson thinks it's a condition already.

John Langey said the one thing County Planning recommended is that the lighting not spillover onto adjacent properties and the state right-of-way. The applicant may have to put shields on the lighting.

Chairman Nakas asked for any other questions or comments.

There were none.

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

Member's Markoff moved and Bush seconded the motion to appoint the Planning Board as Lead Agency, this is an unlisted action and a negative declaration in the SEQR process and to grant modifications to Controlled Site Approval as follow:

- 1) Nursery products may be sold from the property.
- 2) Allowed to operate the business between the hours of 7 A.M. and 6 P.M. on Monday thru Friday, 8 A.M. and 4 P.M. on Saturdays, and 10 A.M. and 2 P.M. on Sundays.

- 3) **May install three outside lights; one at the south side of the building above the overhead doors, one on the east side of the building above the office entrance and one on the west to illuminate a business sign.**
- 4) **May store any and all inventory necessary for the operation of a nursery/landscaping outside the building.**

With the following conditions:

- 1) **There shall be no glare or spillover of lighting onto adjacent properties or the state right-of-way.**
- 2) **There shall be no further construction.**

And to overrule County Planning's recommendations for an engineering study to verify to the New York State D.O.T. that the proposed development would not create additional stormwater runoff into the state's drainage system as the property has been gone over thoroughly and for the applicant to obtain a highway work permit from the New York State D.O.T. for a minor commercial business as the driveway has already been moved. Motion passed unanimously.

CASE # 402 - Public Hearing for application of Stephen & Suzanne Eaton for Controlled Site approval of their property at 6255 Reidy Hill Rd. for a windmill in excess of 50' in height in an Agricultural/Residential District. (Tax Map No. 007.-01-19.0)

Stephen Eaton was present. He said they are proposing to install a wind turbine to generate power for their house due to the cost of fuel and heating during the winter time. The actual tower will be beyond their house. Their house is 800' from the road and the tower would be another 300' beyond that. You might be able to see the top of it when the leaves are off the trees.

Chairman Nakas asked if any neighbors would be able to see it.

Stephen Eaton said Capones are in front of them. They might be able to see it from their back when the leaves are off the trees.

Bob Capone confirmed it would be beyond their house.

Stephen Eaton said it would be 300' behind their house. As far as sound, the wind makes more noise then the turbine will. The whole reason is to offset the cost of heating.

Flora Pond asked how tall it will be.

Stephen Eaton said it's a 120' tower and the turbine is 14' so it will be 134' from the base to the highest point.

Margaret Klotz asked how much taller than the house would it be?

Stephen Eaton said their house is probably 40' tall so it would be another 60-70' taller than their house.

Chairman Nakas said the major concern of the Planning Board when it comes to windmills is visual impairment to the neighbors and a fall zone. If for some reason this thing were to come down, it wouldn't fall onto adjoining property owners or their fence or house, etc. and would be totally on the applicants land. You aren't supposed to have a structure in the town above 50' in height which is why the applicant is here. As time goes on he would like us to be more proactive. For example, how many windmills could you have on your property? He would like the town to be a little more prepared.

Flora Pond asked how many windmills you could have on a small piece of property.

Chairman Nakas said we don't have any legislation on this yet.

Bob Capone asked where the town is on legislation for this.

John Langey said the Town Board hasn't taken action on this yet.

Discussion took place regarding the height necessary for the windmills and the kilowatts needed.

Chairman Nakas asked how much it would take to run all the stuff in your house.

The representative said the average houses uses between 5,000 and 10,000 kilowatts a year. At the Eaton site, it is estimated to use about 9,600 a year. This would basically offset most if not all of his necessary usage.

John Langey said the Codes Officer has determined this is an accessory use above 50' which is why the applicant is here. The Board must base their decision on this application and the impact.

A resident from Eager Road would say most of the trees on her property are 65'. If you restrict someone to 50', it wouldn't cut it. The 65' height of her trees will significantly cut into his wind if he doesn't go taller.

Stephen Eaton said he is going through NYSEERDA who has their own stipulations and they recommend where it has to be. They also stipulate that the applicant has to use almost all if not all of the energy they produce and they have to be hooked to National Grid for 2 years. It's not like they will be independent from purchasing energy but they are trying to cut down on the fuel costs.

A resident asked if they are only planning on one windmill.

Stephen Eaton said yes. Once again, NYSEERDA stipulates you must use up almost all if not all of the energy you generate.

Member Adam asked how many will be installing the windmill.

A representative said usually it's a crew of 3-4.

Member Adam asked how long the construction takes.

A representative said about 3 days to lay out the tower. It takes about 28 days total.

Member Adam asked how many they have done in New York State.

A representative said 22.

Bob Capone said he can't fault the applicants. They have been good neighbors. His only concern is the height and the noise. He read an article on these recently in the newspaper. He thinks the Town has to be careful about this. He doesn't think it will do anything to enhance property values in the area. He would like the height to be a little less.

Stephen Eaton said all the windmills with turbines that were in the paper or on T.V. were the big ones like in Fenner. This is nothing like that. This is a small residential unit.

Bob Capone believes the property rises behind the applicants house. He thinks if you add another 100' on this, the tower will be up there.

Chairman Nakas thinks eventually there might be a windmill height restriction but there is not one in place now.

The representative submitted a picture of the tower. As you get closer to the ground, you get more turbulent air. It greatly decreases the estimated production.

Member Adam said he is an Assessor and the windmill will be assessed at full value which is what the state is recommending. Whatever the applicant pays for it will be added to the property assessment. It's not a done deal yet but that is what is before the Assessors. It will increase the property value for the applicant. This isn't like a shed or a pool.

Sue Eaton said it's not living space.

Member Adam said no it isn't, but if you read the rules and laws under the Property Tax Law, it will be an improvement to your property. It's a permanent installation.

Stephen Eaton said this is considered an asset to the property.

Member Adam said yes. The state is advising it should be assessed at full value.

Bob Capone asked how tall the cell towers on Groth Road are.

He was advised they are less than 200' as they don't have to be lit.

Stephen Eaton said Mr. Page was approved for a wind turbine last month.

Member Adam said each application is reviewed on its own merit individually.

Chairman Nakas asked for any other comments or questions. There were none.

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

The Board reviewed the full Environmental Assessment Form and the visual EAF Addendum. Under the full Environmental Assessment Form, Chairman Nakas believes the proposed action will affect the aesthetics.

John Langey asked if the representative anticipates the windmill will be able to be heard beyond the lot lines.

The representative said at 200' it's 44 decibels and a lawn mower is 50. He can fax a copy of the study to the town.

John Langey said that would be helpful for the future. He asked the applicant for the manufacturer and model.

The applicant advised it was a BWC Excel 10 KW Class Wind Turbine.

John Langey asked the width of the tower base.

The representative advised it's 18" on a 3' x 3' pad.

Stephen Eaton said there are guy wires that run from this as well.

Chairman Nakas moved and Member Markoff seconded the motion to appoint this Board as Lead Agency, this is an unlisted action and a negative declaration in the completion of the long SEQR and Visual EAF Addendum process and to grant Controlled Site Approval to Stephen and Sue Eaton for their property located at 6255 Reidy Hill Road to erect a BWC EXCEL 10 KW Class Wind Turbine along with lattice tower for a total height of 134' including the blades per drawings submitted with the application with the conditions of no additional structures, payment of any and all required fees, and no modifications without additional Planning Board approval. Motion passed unanimously.

CASE # 403 - Public Hearing for Application of William Putzer for Controlled Site approval of their property at 2318 Markland Rd. approximately 1 mile south of the Markland Rd. and Route 20 intersection for a wind turbine in excess of 50' in height in an Agricultural/Residential District. (Tax Map No. 014.-01-10.2)

Rod Nichols was present to represent the application. A letter was received from the applicant advising Rod Nicholas could act on his behalf at tonight's meeting.

Rod Nichols advised the applicant is requesting the exact same model as what was discussed in the previous application. It will be 110' in height.

John Langey asked if that is with the blades.

Rod Nichols said yes.

Chairman Nakas asked how far back from the road it is.

Rod Nichols said the applicant owns 16 acres. He's back at least 1,000' from the road. A survey was submitted showing the location of the tower.

Chairman Nakas asked for any questions or comments.

A resident asked where it is located.

Rod Nichols said at 2318 Markland Rd.

A resident said he is here as he is interested in possibly putting one on his property and wanted to find out some information.

Bob Capone said his concern is the height of these towers.

John Langey said so far there are no tools for the Planning Board to follow on this.

Bob Capone asked who verifies what is needed.

John Langey said if legislation is passed, we can require our Town Engineer to review the applications and verify the information.

Bob Capone said approval was passed on information that was unverifiable.

John Langey said the only thing you can use is the visual assessment. The Town Board could pass a moratorium on applications for windmills which would give them time to figure out what they want to do.

Margaret Klotz wondered how you can give approval on something that the Town doesn't have any set rules for. What's going to stop this as you have already allowed them. What's going to happen to her land?

John Langey said the Code Officer has determined this is an accessory use which is why the application is before this Board. The Town Board can adopt legislation that will regulate wind towers. He suspects the Town Board will be discussing this in the future.

Member Bush said with the 3 applications that have come through in the last 90 days, the residents might want to talk to the Town Board.

Member Adam said not to be afraid to write the Town Board a letter.

Alt. Member Turner said or go to a Town Board Meeting.

Margaret Klotz feels the Board moved too fast and should have been given more tools to work with.

Member Markoff said the Planning Board put a lot of time and work into the first application that came before this Board.

Member Adam said this Board learned that we don't have any more tools before us tonight then we did then. This is a hot topic right now.

Chairman Nakas said there will just be more of them. He asked for any other questions or comments on the application before the Board.

Alt. Member Turner noted the tower will only be 150' from the applicants house.

Chairman Nakas thinks it should be back further. He thinks it should be back 200' from the house.

Member Adam agreed if the elevation supports it.

Rodney Nichols said it's 110' tall including the tower and the blades. It's being proposed to offset the cost of heating.

Member Adam asked if he had wind studies done .

Rodney Nichols said yes.

The Board reviewed the full Environmental Assessment Form and the visual EAF Addendum

Member's Markoff moved and Bush seconded the motion to appoint this Board as Lead Agency, this is an unlisted action and a negative declaration in the completion of the long SEQR and Visual EAF Addendum process and to grant Controlled Site Approval to William Putzer for his property located at 2318 Markland Road to erect a BWC EXCEL 10 KW Class Wind Turbine along with lattice tower for a total height of 110' including the blades with the condition that tower be placed 200' behind the applicants house, no additional structures, payment of any and all required fees, and no modifications without additional Planning Board approval. Motion passed unanimously.

Member Markoff moved and Chairman Nakas seconded the motion to accept the Planning Board Minutes of June 17, 2008. Motion passed unanimously.

CASES PENDING:

CASE # 401 - Public Hearing continued for Modification of Controlled Site approval for Michael Cook to sell merchandise from his tattoo parlor at 2613 Route 11 approximately ½ mile north of the Route 11 and Route 20 intersection in a Business District. (Tax Map No. 020.-05-07.0)
(7/1/08- No application received.)

CASE # 397 –Continuation of Public Hearing for Application of B & C Storage for Controlled site approval to erect 6 self storage buildings on property located on the west side of Route 11 North approximately 1/8 mile north of the Route 11 and Commune Rd. intersection in a Business District. (Tax Map No. 022.-07-03.2)
(7/1/08 – Applicant not ready to go forward. Requests to be on agenda in August.)
(7/16/08 – **Applicant withdrew application.** This will be removed from the Agenda)

Chairman Nakas moved and Member Bush seconded the motion to adjourn. Motion passed unanimously.

The Planning Board Meeting adjourned at 8:25 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary

Adopted 9/17/08 with one addition: Public hearing for Putzer case was closed.