

Minutes of the Planning Board Meeting held by the Town of LaFayette Planning Board on September 17, 2008 in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette at 7:01 PM.

Present: James Nakas, Chairman
Richard Markoff, Member
Brad Bush, Member
Shawn Adam, Member
Barb Lasky, Member

Recording Secretary, Mary Jo Kelly

Others present: John Langey, Planning Board Attorney
Dennis LaRonde
Scott Daley, Applicant
Matt Napierala, Manley Mighty Mart
Mike Tomanocy, Manley Mighty Mart
Bill McConnell, Councilor
Jerry Munger
Tom Bailey, Councilor
Adrian Shute, Councilor
Heidi Revette
Carl Revette
Bruce Donohue, Applicant
Joan Freund
Patsy McElhannon
Katie, Jason, Kayleigh & Sophie Olrich
Mr. Hiza

Chairman Nakas welcomed everyone and called the meeting to order at 7:01 p.m. He asked if there were any additions or corrections to the August 18 Meeting Minutes. Member Lasky asked if the public hearing for the Putzer application was closed. The Board felt it was. The August 18 Planning Board Meeting Minutes were approved as submitted by the secretary with the addition that the Putzer public hearing was closed.

CASE # 388 - Continuation of 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.

John Langey said he called County Planning regarding their comment that this action is located within an MS4 area so the applicant must consult with the municipal engineer to ensure conformance of construction plans. He advised them this parcel was not in an MS4 area as the Town Board had not included the whole town in the MS4 area. He also advised them that the applicant had a letter from the D.O.T. approving the driveway cuts onto Route 20. The only thing County Planning stood by was the idea that

they wanted to see an interior road to access the lots. It's up to the Board whether they want to overrule County Planning regarding these disapproval recommendations.

Scott Daley said he spoke with some residents after the last meeting who voiced some concern about any new construction and geothermal use. He sent a letter to the Board dated 9/15/08 stating no geothermal heating will be approved on any of the parcels.

Mr. LaRonde said he is the one who raised this question. He explained why he was opposed to geothermal heating and how it made him lose his well. It's a concern to him. He doesn't care if people want to build a house and live in it because it's their property but when something like this happens, it becomes very frustrating. If you go from the parcel with the barn on it and head uphill, there's a stretch of guardrails and within that stretch there's a drain that goes under Route 20. If you go down further towards the railroad tracks, it becomes quite wide. The previous owner of the property put a little fill in there and blocked the drain that was under the railroad and eventually it blew a hole under the tracks and then the drainage blew out his driveway. It's a major problem in his mind with this drain. If they do any grading on the lot with the barn on it, it will have to be done delicately because it's high banked above the railroad tracks. The state has brought all the water down to them on Apulia Road. He doesn't have a problem with the other 3 lots.

Chairman Nakas said in terms of the geothermal heating, Mr. Daley has stated no geothermal heating will be allowed on any of these parcels and he will be sure this is on the map. He asked if they would also like something on the map delineating draining of the lot with the barn on it.

Mr. LaRonde said yes.

Chairman Nakas said perhaps Mr. Daley could discuss any grading with our Town Engineer and Mr. LaRonde regarding that parcel.

Mr. LaRonde said that would be O.K. with him. He thinks it will be touchy to put a house on that parcel with the barn as it will have to be right next to the storm drain that goes under Route 20. He has reservations about anything being built on that particular lot.

A resident agrees. She gets all the runoff from the railroad tracks and she has spots in her yard from it already. Her driveway washes away already. The placement of the house on the parcel makes her concerned about the septic and if that could go right into her well.

Chairman Nakas said the septic would have to have the Dept. of Health approval and they would be very careful.

A resident said any development up there causes her concern regarding her well and water supply.

Chairman Nakas asked since there is concern about drainage, does the applicant want to hire an engineer or have the Town Engineer look at this?

Mr. Daley said it seems the problem has existed long before this application. He has said he will use a swale. It would be fine with him if the Town Engineer wanted to review the application. It's lot # 4.

Mr. LaRonde believes someone really needs to look at that problem before anything is approved.

Chairman Nakas would like to have this looked at before the Board votes on it.

Mr. Hiza asked if something should happen when they build on this site to his well, what recourse does he have?

Chairman Nakas isn't sure what affect home construction would have on his well. Certainly drilling an additional well might have an affect on his well.

Mr. Hiza said if the Board reviews the drainage and water and finds no problem, he is O.K. with this.

John Langey advised the applicant voluntarily said he will put on the map that no proposal will include geothermal heating. The map will be referred to the Town Engineer to review. As far as a well, he doesn't know if this would have an impact on neighboring wells or not. Right now you are looking at 4 new homes on 11.69 acres and you can't see where aquifers are in the ground.

Chairman Nakas said it looks like we should have the Town Engineer take a look at this and he will give us more feedback on the drainage issue. The issue of the well water, no one knows where the water veins run. The Board would be concerned if this were a development with many units. He doesn't think it would be legitimate to ask every application to do a hydrological study. The applicant has agreed not to have any geothermal heating. He asked for any other questions or comments.

Mr. LaRonde said his only other question is regarding the same lot. Like all home owners when they are excavating or adding soil, they have to be very careful as it will all go downhill. That one particular piece of property is the narrowest piece of property and there's a high bank right above the railroad tracks and if you bring in or take out dirt, he believes the residents below this parcel will have problems. The railroad has a very large drain just north. Who would be responsible for that? Is it the property owner who is responsible for keeping that open?

Chairman Nakas said the Board will try to find this information out.

Member Bush asked if that is the section of railroad track that was wiped out one spring a few years ago.

Mr. LaRonde said yes. It took out his driveway and the railroad has nothing to do with replacing the driveway or correcting the problem. Who is responsible for this drain? Who is responsible if this happens again?

Chairman Nakas said the Board will try to find this out.

John Langey said the Town Engineer will look at the impact of the proposed development on the downstream piping and if this proposal will increase the drainage. Erosion control at the time of construction will be taken into consideration.

Member Adam thinks the Town Engineer will have to look at this pretty carefully.

Mr. Daley said if it's not approved to build on, it's his property and he could still clear the land.

John Langey said if you disturb more than an acre of land under the D.E.C. you are required to get a stormwater permit. Most engineers can figure out what to do.

Councilor McConnell gave Mr. LaRonde information on who to contact with the railroad.

Chairman Nakas said the public hearing will remain open until the next Planning Board Meeting so the Board can hear back from the Town Engineer and if anyone has problems with the information we get back, they can address their concerns with the Town Engineer who will have been to the site by that time and then hopefully if everything has been put to rest, the Board can take an action on the application.

Member Bush thinks the Board should address the road cuts.

John Langey said County Planning recommends having an internal road for any future subdivisions. The applicant does have D.O.T. approval for the proposed driveway cuts.

Member Bush said the applicant is proposing using the whole parcel of land for the 4 lots so there would not be any future subdivision.

Chairman Nakas said the Board is of a mind to overrule County Planning's resolution regarding an interior road but would like to do this all in one resolution at the next meeting.

Chairman Nakas said there is a request from the Town Board for some input on the conversion of Hamlet zoning to allow a convenient store, gas station, diesel sales, etc. on the west side of McDonalds on Route 20. Representatives are here for this request.

Member Bush asked what the Town Board is asking this Board to do.

John Langey said he was briefed on this and his understanding is that currently the proposed use they are here about can not be allowed in a Hamlet District. The applicant recognizes this so rather than ask for a use variance from the Zoning Board of Appeals which would be extremely difficult, they have decided to go to the Town Board to request a zone change. After hearing the proposal, the Town Board felt they should get input from the Planning Board on this. The Town Board would like this Board's input as to whether this would fit into the existing area. You should review the Comprehensive Plan, Zoning Ordinance and history of the property.

Councilor Bailey said the Town Board would like this Board to look at the concept of the proposal.

John Langey said it should be to consider if this type of use should be considered for this property.

Councilor McConnell said when Bruce Donohue came before the Town Board he requested rezoning this to Commercial Planned Development which allows the Town Board to oversee the development of this parcel. The Town Board would like Planning Board's opinion and the Town Board would decide whether or not to change the zoning to Commercial Planned Development.

Chairman Nakas said to him this means business.

Councilor McConnell said yes. One exception is that it's a large area with one small area being approved.

Councilor Shute said as it's been explained to the Town Board, the Commercial Planned Development is not like changing it to business. Changing it to business would open a broad range of uses. This would be approved under the Commercial Planned Development for a specific plan submitted to the town.

Councilor McConnell agrees with this.

Member Bush asked if the town has any of these districts now.

Councilor McConnell said not right now. The biggest option we have is the Town Board to oversee the project.

Chairman Nakas said this parcel could be developed further.

Councilor McConnell said the area could.

Mr. Napierala said the Town Board asked if the owner of the property is behind this proposal and Mr. Donohue is here tonight to say he is. The Planning Board will get a full site plan review package if and when the Town Board is agreeable to the rezoning of this particular piece of property. The proposed development includes a convenient store, 4 regular fuel dispensers and a diesel dispenser island. There is a large area for trucks as they will need room to turn around and get back to Route 20. The main point of access is an existing right-of-way off of the McDonalds drive. This proposal shows a separate egress that would fully have to go before the D.O.T. to review. This is not dependent on

the development. They are aware of the site distance and hillside. The main building is around 4,000 square feet and it's a convenient store.

Chairman Nakas asked the size of the Nice N' Easy in town.

Matt Napierala thinks between 2,800 and 3,200 square feet. This proposal would be smaller than the Nice N' Easy in Tully.

Chairman Nakas said and larger than the one here.

Matt Napierala said the property is 36 ± acres.

Bruce Donohue said the proposed site is 5-8 acres..

Matt Napierala said it depends on the turn-arounds, septic, well, etc. They have laid out a plan of what they think will work as a subdivision of Bruce Donohue's property. They know they will have to deal with the runoff as this is on a hill. That will all come about in a submittal. They are here to have the Planning Board take a look at this proposal and see how it fits in with the surrounding Town of LaFayette's Comprehensive Plan. They reviewed the Comprehensive Plan and it says the Town has to look at the option of Commercial Planned Development in certain areas of the town that it would make sense. He feels this area is part of that. The Comprehensive Plan discusses a Town Hall on a neighboring parcel. This property is addressed in the Comprehensive Plan. He thinks this is one of the things the Town Board wants the Planning Board to be aware of.

Chairman Nakas asked where the split island is for diesel, is it 3 pumps for diesel or 6?

Mike Tomanocy said there's 3 dispensers with two hoses on each one.

Chairman Nakas said the island for unleaded fuel shows 4.

Mike Tomanocy said there's 4 dispensers with hoses on each side.

Member Markoff asked the hours of operation.

Mike Tomanocy said 24 hours.

Member Markoff asked if they plan on a lot of tractor trailers using it.

Mike Tomanocy said they are hoping to get some. He thinks they will get more car business. They are ducktailing off of McDonalds as well.

Member Markoff feels there are a lot of diesel pumps being proposed.

John Langey asked Bruce Donohue if McDonalds controls the access point.

Bruce Donohue said it's a right-of-way.

Chairman Nakas asked how much water they believe would be consumed per day.

Matt Napierala said their water usage isn't significant. They are looking at 1200 gallons/day. By actual usage of existing Mighty Mart Stores is 200-300 gallons/day. There will be a drive-thru vendor with a sink.

Chairman Nakas thinks the average household uses 300-350 gallons of water per day.

Mike Tomanocy said it's no more than an average household.

Matt Napierala said the D.E.C. design rate is for the size of the property at 8-9 acres at 1,000 gallon/day.

Member Markoff there is a lot of traffic here and many times people are pulling out in front of you.

John Langey asked if a formal application has been submitted to the Town Board.

Matt Napierala said no. They are really at an advisory roll and are looking for an opinion. They are trying to get some direction.

John Langey asked if there is any thought as to incorporating more landscaping.

Matt Napierala said yes.

John Langey asked where the septic system would be laid out.

Matt Napierala said they blocked out an area on the west side of the property. The Department of Health requires a 200' radius for a well.

John Langey asked if this would be under public water.

Matt Napierala said it will be a public water supply.

John Langey asked if the secondary access is at the peak of the hill.

Matt Napierala said it's getting pretty close.

John Langey asked if they would have to do fill.

Matt Napierala said probably.

John Langey asked if they would be proposing a light at this spot.

Matt Napierala said no.

Chairman Nakas asked if they had a feel on how much the vehicle traffic would increase.

Mike Tomanocy said he doesn't know what McDonalds is.

Matt Napierala said this is difficult. He would think maybe an increase of 1/2 as much as there is now.

Chairman Nakas said his concern is how many times he has almost been hit by someone trying to make it across Route 20 to get on Interstate 81 as he travels this road every day. This is going to add to all of that. Now we are going to have school, McDonalds and this all in a row.

Member Markoff said it's also very difficult at sunset getting off Interstate 81 as you are almost blinded to traffic going down the hill.

Matt Napierala said they will have to re-evaluate this and have a traffic study. The 100' easement exists so this parcel couldn't get landlocked and could be used in the future.

John Langey asked what a tractor trailer visitor will be told they can or cannot do regarding the large parking lot.

Mike Tomanocy said under New York State Law no trucks can idle more than 5 minutes. In the winter sometimes they have to be told to shut them off.

John Langey asked if they handle this entirely.

Mike Tomanocy said yes.

Matt Napierala said the expansiveness of the area is for turning of the vehicles. The intent is not for overnight parking.

Chairman Nakas asked if there are cases where there would be overnight parking.

Mike Tomanocy said they don't permit parking at any of their stores.

Chairman Nakas asked if anyone parks overnight.

Mike Tomanocy said not that he knows of.

John Langey asked which way the property drains.

Matt Napierala said towards McDonalds. He discussed how they would handle this.

John Langey asked if they would maintain this.

Matt Napierala said the owner will maintain the deficit and the outlets.

John Langey asked what this was zoned before Hamlet.

Bruce Donohue said Commercial. It was any commercial use.

John Langey asked if this was one of the uses before it was rezoned.

Bruce Donohue said yes.

Chairman Nakas said once it was rezoned Hamlet, this was not an allowed use. The reason the Nice 'N Easy is there is because they got in before the Hamlet zoning took effect.

John Langey said it would be 24 hours so there would be lighting.

Matt Napierala said their lighting would be controlled.
John Langey asked the nearest residents to the west.
Bruce Donohue said it's about 300' from the proposal to the next property.
Mr. Freund asked about the residents across the road.
Matt Napierala said he doesn't have this information.
Chairman Nakas asked how many homes are across the road.
Mr. Freund said there are 3 across the road and one adjacent to the property.
Katie Olrich said that is their house.
Member Bush confirmed they are saying this proposal is 300' from that property.
Bruce Donohue said about that.
John Langey asked the Town Board Members present if there was anything else they wanted the Planning Board to look at.

Councilor Bailey said his concern is the truck traffic. Even though their proposal is for no overnight, he doesn't see anything that would preclude the driver from spending the night. The Pilot truck stop on the north side of the city is full by 5:00 p.m. When word gets out about this site, he thinks you will have full capacity parking behind McDonalds.

Member Bush asked if there is a way for the town to not allow overnight parking.
John Langey doesn't know if the town can police this. He said the Planning Board will review the Comprehensive Plan.

Member Bush knows if this is approved it will be by far the biggest proposal before this Board since the Nice N' Easy which was highly contested by many residents.

John Langey said if it gets to the site design, you will want to see the architectural design and a lot of other issues.

Member Bush asked if this Commercial Planned Development happens, would that change the Planning Board being able to place restrictions on this application? Would the Planning Board be limited because the Town Board has rezoned it?

John Langey said if the Town Board is advised the Planning Board feels they should consider this, the applicant would submit a petition for this type of development to the Town Board and then it would come back to the Planning Board where this Board must make certain findings to send it back to the Town Board for their final approval. He reviewed the process for the Board.

Chairman Nakas said for now the Board should do their homework and by the next Meeting come back with their input and make a resolution to recommend or deny this application and list the reasons.

Member Bush asked if it would go to a public hearing.
John Langey said that would be at the Town Board level.

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

The Planning Board Meeting adjourned at 8:04 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary