

Minutes of the Planning Board Meeting held by the Town of LaFayette Planning Board on October 21, 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
William Turner, Alt. Member

Absent: Barb Lasky, Member
Recording Secretary, Mary Jo Kelly

Others present: John Langey, Planning Board Attorney
Dennis LaRonde
Mr. & Mrs. Scott Daley, Applicants
Bruce Freund
Tom Clarke
Katie Jugan
Heidi Revette
Carl Revette
Knowlton Foote

Chairman Nakas called the meeting to order at 7:02 p.m. and welcomed everyone.

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 said he spoke with his engineer who referred to the letter from John Dunkle dated October 7, 2008 which stated if more than an acre is disturbed he would have to apply for a permit from the D.E.C. He and his engineer figured it out and it wouldn't be more than 3,500 square foot per house times 4 houses would be 14,000 square feet which is not even 1/3 of the 1 acre disturbance. You would be putting everything back which would be permeable soil. As far as the culverts, they can update the plans to show the culverts. The Town Engineer noted to keep the trees in back which he would be willing to do.

Chairman Nakas asked about the forested area on Route 20 near the bottom of the map.

Scott Daley showed the area of trees that they would preserve.

Chairman Nakas asked how large the parcels are.

Scott Daley said they go all the way back.

Mrs. Daley said it's not buildable in the back though.

Chairman Nakas said because of the slope.

Scott Daley said the large lot is 6 acres.

Chairman Nakas confirmed he had decided not to change this to a 3-lot subdivision.

Scott Daley said he thought to change it to 3 because he thought it would cost too much to get the D.E.C. involved. Once he found that it would be under the threshold, he decided to keep it at 4 lots. It would be 3,600 square feet per house which would be 14,000 square feet for 4 houses.

Chairman Nakas noted Mr. Dunkle said the contours on the plan are interpolated from 20-foot USGS contours, and are not reflective of the irregularities, drainage channel(s), and steep slopes that are present on the property. He recommends a topographic survey be completed to accurately depict drainage patterns, and then used to determine buildable areas for each proposed lot.

Scott Daley said he spoke to his engineer about this. The Board doesn't want him to clear the land which is what he would have to do to show the contour lines.

John Langey said the Town Engineer is asking for a topographic map.

Scott Daley said in order to do that, he would have to clear the land.

John Langey said the Town Engineer is recommending to the Planning Board that the applicant provide a survey that "accurately depicts drainage patterns". He also recommends building envelopes be shown on the map. These areas would be where you show the Board where you plan on building the houses.

Scott Daley was concerned with the expense of this.

John Langey said the plans submitted aren't good enough for the Town Engineer. These are the Town Engineers recommendations to the Planning Board so the Board goes with his recommendations unless you can talk to him and have him withdraw his recommendations.

Chairman Nakas isn't sure this would incur any great expense on the applicants part. It would just be another map.

Scott Daley said he is just going by what his surveyor said.

Chairman Nakas said perhaps the person to be called would be John Dunkle.

Scott said his surveyor talked to John.

Chairman Nakas would recommend the applicant call John Dunkle. If the Town Engineer is happy, than the Planning Board is happy. He asked the Board or the public if they had any questions or comments.

Dennis LaRonde said the Board is requesting the applicant show on the map where the houses will be located, where the driveways will go, etc. Who enforces the 1-acre clearing once this gets approved and the guy who buys the lot just goes in and starts to build or clear the land? You can't walk in a straight line with the Christmas Tree plantation that is there without disturbing the trees. Who enforces this? If we don't enforce it, we could have some erosion problems which is one of their great concerns.

Chairman Nakas said it would be a proactive rather than a reactive situation. Someone would have to contact the Code Enforcement Officer and tell him they believe more than 1 acre is being disturbed and he would have to go down and look at it.

John Langey said if someone disturbs more than the acre, a neighbor can call the D.E.C. and the D.E.C. will come out and issue a citation and the person will have to get a permit. The applicants plan is showing only a little disturbance. He would recommend a condition of the approval is if he disturbs more than an acre, a D.E.C. permit would be required. This Board really can't enforce the D.E.C. law.

Chairman Nakas noted the subdivision regulations indicate a topography map is required at 5' intervals.

John Langey said it does look like they have proposed building envelopes on the map. The way it is being proposed, he would have to build the homes within the building envelopes. If the applicant decided to change the position of the house, he would have to

come back to this Board for approval. If the Board adopted John Dunkle's recommendations about the preservation of the trees, this should be done by a restrictive covenant. The way to make it cheaper and easier is to indicate it on the map. The Town could prepare covenants for review.

Member Bush asked if there is a way to develop this property without removing the trees. Could the applicant log the land?

John Langey said the applicant could drop the application tonight and go up there and cut the trees down. We have never had the Town Engineer recommend preserving trees because of drainage.

Dennis LaRonde said a 1,200 square foot house footprint is a side-stepping of what the recommendations were from the Town Engineer that the Town hired to look at this. Once this is approved, are we going to restrict the next landowner to square footage? He finds it hard to believe if he comes in and buys a lot and wants to build x, y, z house that he is going to agree to buy this lot stating he can only put in X number for a footprint. We are talking about this so the applicant doesn't have to go to the D.E.C. for a permit. He doesn't want the applicant to have to spend a lot of money. He just doesn't want to find out we have a footprint for a house that is a different footprint from what is proposed and we are right back where we started. The neighborhood is going to have to be the watchdogs.

John Langey said it's no different than what Member Bush was saying if the applicant went out and built a gigantic house and disturbed more than an acre. The difference is the applicant is making a proposal to the Board stating he will not be disturbing more than an acre. If he does, the D.E.C. would be notified by someone and there would be a problem for him somewhere down the line.

Dennis LaRonde believes the problem would be for whoever buys the lot. He doesn't want to be up here hollering that someone has a bulldozer down there clearing the trees.

John Langey said he wouldn't be hollering to this Board but to the D.E.C.

Scott Daley said he is not petitioning for a 1,200 square foot house.

Chairman Nakas said this whole 1 acre disturbance thing has been imposed in the last year or year and a half. Developers and builders have become aware of it. If you are going to be disturbing more than an acre of land on a parcel, you need a permit from the D.E.C.

Chairman Nakas asked the applicant to contact John Dunkle directly and to contact his surveyor and get right with the 5' contours that we have stated in our Subdivision Regulations.

Scott Daley confirmed the Board needs 5' contours and noting the drainage on the map.

Chairman Nakas said and the protected area.

Scott Daley said he will make the building envelope as large as possible to give the builder options.

John Langey said the other thing is to have someone prepare some proposed covenants regarding the preservation of the trees shown on the map.

Chairman Nakas asked if he got approval for the driveway cuts.

Scott Daley said he got approval from the state pending the Towns approval.

Chairman Nakas asked for any other questions or comments from the Board or the public. There were none.

Member Markoff moved and Alt. Member Turner seconded the motion to close the public hearing. Motion passed unanimously.

The applicant will be back to the next meeting with the requested information.

Chairman Nakas asked if there were any additions or corrections to the September 19, 2008 Planning Board Meeting Minutes.

Member Adam had one correction. On page 2, second paragraph “loose” should be changed to “lose”.

Member’s Markoff moved and Adam seconded the motion to accept the September 19, 2008 Planning Board Meeting Minutes as submitted by the secretary with the above correction. Motion passed unanimously.

Chairman Nakas said the Planning Board has been asked by the Town Board to review a request for a rezoning of the property just west of McDonalds on Route 20 for a Manley’s Mighty mart. It would be like the Nice ‘N Easy but bigger. The Board will have a discussion and come up with a recommendation.

Member Adam noted this is not a public hearing.

Chairman Nakas said the Town Board just asked the Planning Board for their input and they will decide whether or not to go ahead with a zone change. He submitted some points of discussion to the Board. He asked for any comments.

Member Bush said at the meeting last month the applicant was here and made it very clear that it was not a truck stop and he thinks there needs to be some definition made of what a truck stop is and what it isn’t. He feels a truck stop offers fuel, parking, showers, etc. This application has none of those items but fuel. He has been approached by several people in the community and he feels the applicant made it clear he was not proposing a truck stop. The applicant had no interest in a truck stop but also LaFayette is a terrible spot for trucks to stop at. His concern is that people have been presenting this more as a truck stop than what it actually is which is a gas station or convenience store. He thinks the 165 signatures may have been mislead. He isn’t saying a convenient store should go there but he thinks the developer should have it considered without bias.

Chairman Nakas said there were several pumps shown on the proposal. There were 6 for diesel and 8 for gas.

Carl Revette said if they are showing 6 diesel pumps for trucks and 8 for cars he would assume they are anticipating 70 % of their business to be from trucks. They never came up with a figure on how many customers they anticipated having.

Member Bush said his concern is that the public was told something different which he will not base his opinion on.

John Langey said in the September Minutes from the Town Board, the applicant stated they would include a 4,800 square foot building and showed 4 isles for gas and 3 for diesel, a drive-through for coffee, etc.

Chairman Nakas said it would seem to him a truck stop is a place trucks stop for food, fuel, restrooms, etc. If it’s not going to be a place for trucks to stop then they wouldn’t have 6 pumps there that they would be filling up at.

Member Markoff said there is a lot of traffic in this area already with McDonalds. He thinks the corners are tested sometimes now with McDonalds there. Coming down that hill in the winter is difficult. If a truck pulls out in front of you, it is pretty tough to stop. He walks this area a lot and there’s a lot of traffic there. It’s difficult for people to get in and out of McDonalds now. If you put a light there, it would still be difficult to stop in the winter. His standpoint is a safety issue with the amount of traffic that is already there.

Member Adam said in conjunction with the one being developed in Preble, it would handle the northbound traffic and the one in LaFayette would handle the southbound traffic. This doesn't preclude someone northbound from pulling off in LaFayette. He observed an 18-wheeler making a turn in the center of town which was very interesting. The D.O.T. project in the center of town has been delayed several times and he doesn't think it intends to deal with trucks. He believes this will be utilized as a truck stop. Councilor Bailey mentioned at the last Town Board Meeting that the Pilot truck stop off 7th North Street is full by 5:00 p.m. every night. Truckers looking to spend the night are well serviced by that site. There are bars and a strip joint near it and he certainly doesn't want to see these pop up here. He thinks Councilor McConnell spoke of this as an anchor for development and if this is an anchor, he doesn't want to see what pops up around it.

Knowlton Foote asked why there are 6 diesel pumps.

Member Bush believes there are small trucks using diesel now too. There is 0 spots for trucks to park, it's a turnaround.

Chairman Nakas thinks it would greatly intensify the traffic and congestion in the Hamlet area and he thinks this needs to be avoided at all costs. Given the proximity of the Grimshaw School, a zoning change to accommodate this type of use would create a situation of school – Rt. 81 – McDonalds – truck stop within a relatively compact area and again, given the increase in truck traffic, causes increased concern for school children. Any northbound truck that got off in LaFayette and went to this site must make a second trip through the 4 corners to get back on Rte. 81 going north. It would have to come through town twice. He still thinks given the number of pumps, they want truck traffic and to be pumping a lot of diesel.

Alt. Member Turner said he drives truck all over the country for a living. It doesn't really have to be called a truck stop to be one. Truckers just look for enough room to park a truck and it becomes a truck stop. They have closed a lot of the rest areas on the interstate so any place that is nice to get off the road today, they take. You see it behind McDonalds now.

Member Adam thinks if you build it, they will come. It may not be their intent but he doesn't think you can control what might happen.

Knowlton Foote said with the way the intersection is, 53 footers have a difficult time going through it. The state is facing a 2 billion dollar deficit this year and next year it will be 8 billion dollars. He doesn't think we will see the D.O.T. project ever. He thinks safety should be considered. Seeing the 53 footers making a turn at the 4 corners is very interesting.

Chairman Nakas said the day after the September Meeting, one of the citizens went to the Tully Nice 'N Easy and actually saw 4 truckers filling up and 4 had sleeping drivers in the trucks and this is an activity that is not monitored as overnight parking is not permitted but is obviously going on. He thinks this is a direction the town does not need to go in. If the applicant were interested in a type of development that would be more office oriented or more business oriented, he thinks it might be more suitable with other businesses in the Hamlet area but this type of traffic, development and proximity to the school is problematic to say the least.

Knowlton Foote said in the morning when people are going to work, you can see cars backed up all the way past the church and school.

John Langey said this Board is just making a suggestion to the Town Board regarding a planning aspect.

Member Bush said there are a couple of letters already.

John Langey said they can be added to the recommendations from this Board.

Member Bush said after all the training schools they attended regarding SEQR, etc., for the Planning Board to come across and say this is a bad thing, he can't put his name to it. He doesn't want a truck stop either. He's not comfortable saying this is not good at all because he doesn't have that information in front of him and he doesn't think it's fair to the tax paying property owner.

Chairman Nakas said he thinks it is hard to find anyone in town based on a general survey that is in favor of this type of development. They got 167 signatures on a petition against this. He thinks it's a truck stop too. The petitioners couldn't find anyone in favor of this and advised they could get more signatures if needed.

John Langey said this Board is in charge of the planning of this project.

Chairman Nakas believes this is fraught with problems and it should be buried and buried deep.

Dennis LaRonde seconded that.

Carl Revette agreed.

Member's Markoff moved and Adam seconded the motion authorizing the Chairman to sign a letter to the Town Board recommending denial of the rezoning of this property based on the following reasons:

§ **The proposed use of gas station is not an allowed use under current zoning regulations in the Hamlet District. Such a project could create an extremely intense use within the hamlet area and it is probably for this reason that such a use was originally excluded.**

§ **It was also noted that under the previous iteration of the Town of LaFayette Zoning Ordinance, the area in question had specifically allowed gas stations but, pursuant to the zoning amendments which created the Hamlet District, this type of use was specifically removed from this area.**

§ **Convenience store type operations are generally 4,000 sq. ft. or larger (consistent with the instant proposal) which would be twice the size of the Nice & Easy Store (2,200 sq. ft.) currently in LaFayette on Route 11.**

§ **Due to site constraints, the up and down type of topography where this project would access, the Town should be concerned about a potential significant increase in accidents in this area.**

§ **For such a commercial type of operation, any north-bound truck would have to pass through the middle of LaFayette twice - once to exit Route 81 and go west on Route 20 to the site; to exit the site, the vehicle would proceed east on Route 20 to the light and subsequently north on Route 11 and re-enter Route 81 northbound.**

§ **There are many antidotal instances of difficult passage through this area of Route 20. Anyone who has traveled through here on a regular basis has experienced many close calls from vehicles trying to dart across Route 20 and proceed on Route 81 south. Board Members**

themselves have experienced this for quite some time. This project may exacerbate an already dangerous situation.

§ **Given the proximity of the Grimshaw School, a zoning change to accommodate this type of use would create a situation of school - Route 81 - McDonalds - gas stations for vehicles and tractor trailers within a relatively compact area and again, and, given the increase in truck traffic, causes increased concern for school children.**

§ **The possibility for overnight stays by truckers should be considered a potential impact. A survey of the truck stop in Tully by one of the property owners residing west of Route 81, revealed eight trucks on the premises, four of which were purchasing fuel and four with sleeping drivers. Apparently this activity is not monitored as overnight stays are “not permitted”.**

§ **Presently, there is only one entrance and one egress and both would occur through a shared right-of-way with McDonald’s. Such an approach is potentially fraught with problems both from a practical and safety standpoint.**

§ **Planning for an expanded travel lane for Route 20 should not be presumed to occur in the near future.**

§ **Lack of need. Research conducted shows at least ten (10) truck stop type facilities are less than a 30 to 40 mile radius of LaFayette.**

§ **Preble, only 10 miles away, will have a similar use, placing into question any perceived void in the area for such a use.**

§ **It is also felt that significant portions of the Town’s Land Use Plan of 1988 would discourage a zone change of this nature.**

§ **Although the “Town of LaFayette Land Use Plan” recommends “encouragement of economic development near the interstate highway interchange”, it also recommends “to guide such development towards compatibility with existing development”.**

§ **The Land Use Plan also stresses the need “to preserve as much of the town’s country/suburban character as possible as residential development continues”.**

§ **Another quote from the Land Use Plan: “There is a 38 acre parcel (west of Route 81) which would represent a logical westward extension of the hamlet of LaFayette.”**

§ **The Land Use Plan states “the major problem in terms of developing [this site] for residential and/or commercial use is accessibility. Since the steep slope formed when Route 20 was cut into the hill limits**

access to one part nearly opposite the Route 81 exit and entrance ramp, a single access point would preclude multiple, independent commercial activities.” This appears to be what is being requested. (Comp. Plan p. 45).

§ Concerns are for water as well. The Land Use Plan states one of its objectives is to regulate through satisfactory evidence of groundwater capacity to support development. (Comp. Plan p. 8).

§ As stated in the Plan: (1) the key to future growth will be to protect the traffic carrying capacity of the highway system and to preserve as much of the Town’s country/suburban character as possible while residential development continues. Overall density of development will be constrained by those natural features of the environment that inhibit growth as well as by the Town's desire to protect water resources, aesthetic values, and general environmental quality. (Comp. Plan p. 10).

§ The design of commercial sites should stress safe, controlled access to the sites, compatibility of commercial activities with adjacent land uses, and avoidance of isolated commercial activities in predominantly residential areas. (Comp. Plan p. 42).

§ Overall, the Planning Board doesn't see this as this type of “anchor development” for the portion of the Town or the Hamlet.

§ More appropriate uses in this portion of the Hamlet would be office and office-type uses, as well as other typical “Hamlet” style uses.

Voting was as follows:

Chairman Nakas	Voted	Yes
Member Markoff	Voted	Yes
Member Bush	Voted	Abstain
Member Adam	Voted	Yes
Alt. Member Turner	Voted	Yes

Motion carried 4-1.

Chairman Nakas asked if anyone wanted to see the letter before he signs it.

John Langey said he will email it to Mary Jo and she can forward it on to everyone.

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

Motion passed unanimously.

The Planning Board Meeting adjourned at 7:50 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary
Adopted 1/20/09