Minutes of the Zoning Board of Appeals Meeting held by the Zoning Board of Appeals of the Town of LaFayette on December 10, 2002 in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette.

Present: Stephen Beggs, Chairman
James Butkus, Board Member
Robert Drumm, Board Member
Daniel Kuhns, Board Member

Absent: Albert Miller, Board Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, Town Attorney
Sandra Smith, Town Councilor
Ralph Lamson, Code Enforcement Officer
David Knapp, Town Councilor
Dorothy Tennant, 2991 Sentinel Hgts. Rd.
Robert Tennant, 2991 Sentinel Hgts. Rd.
Robert DeOrdio, 2981 Sentinel Hgts. Rd.
John DePalma, 3142 Sentinel Hgts, Rd. (Applicant)
Carol Oot, 2782 Route 11
Claire Watson, 2980 Sentinel Hgts. Rd. (Applicant)
Karen Miller, 2786 Route 11
Mike Miller, 2786 Route 11
Patti Bowe, 2425 Onativia Rd.
John Engelken, Box 99, Apulia Station
Jeff Murray, Commane Rd.
Andra Leimanis, LaFayette Rd.
Greg Watson, P.O. Box 559
Jan Watson, Route 11
Donna Coty, Box 99, Apulia Station (Applicant)
Jason Timian, 5771 Norman Dr.
Jean Suters, 6005 Route 20
Bruce Freund, P.O. Box 121

Chairman Beggs called the meeting to order at 7:39 p.m.

Everyone introduced themselves.

Chairman Beggs asked if everyone had a chance to review the minutes and if so, were there any corrections or additions. There were none.

Member's Drumm moved and Butkus seconded the motion to accept the November 12, 2002 Zoning Board of Appeals Minutes as submitted by the Secretary. Motion passed unanimously.

Chairman Beggs said this evening the Board has several issues in front of them. He proceeded with the agenda.

CASE # 547 – Appeal of John DePalma for a side-yard variance on his property located at 3142 Sentinel Heights Rd. approximately ¼ mile south of the Mondore Dr. and Sentinel Heights intersection in an Agricultural/Residential District.

Mr. DePalma said 5 years ago he got a building permit to build a deck. He told Mr. Lamson he only had 19' and he showed him the right-of-way for his driveway. Mr. Lamson said since he had the right-of-way he was O.K. and he gave him a building permit. He recently put a sunroom on top of the deck. He is 19'2" from the line.

Chairman Beggs asked if this would be on the southern border of the property.

Mr. DePalma said yes.

Member Butkus asked if the driveway was on his property.

Mr. DePalma said not all of it.

Chairman Beggs said this is a sketch plan conference to be sure the Board has everything it needs before they go forward with a public hearing.

Member Butkus asked if he is going to build a deck within 19' of the property line.

Mr. DePalma said the deck has been there for 6 or 7 years.

Member Kuhns asked what is changing.

Mr. DePalma said his neighbor isn't happy with him and is complaining about it.

Chairman Beggs noted the sunroom building permit was issued August 28, 2002.

Mr. DePalma said it's already built.

Member Butkus asked if the sunroom is on an existing structure.

Mr. DePalma said yes, the deck was built in 1996 or 1997.

Chairman Beggs said the deck was inspected August 19, 1998.

Mr. DePalma said he doesn't know if the sunroom has been inspected yet.

Chairman Beggs noted the right-of-way was established in 1995.

Member Butkus asked what the metal building next to his property is.

Mr. DePalma said it's quite busy there. It looks like a business is running out of it.

Chairman Beggs noted the sunroom/deck is encroaching on the side-yard by 6'. This would require a side-yard variance of 6'. The Board has a survey of the property showing the dimensions of the set back. He asked if the right-of-way really has anything to do with it.

Mr. Langey said no. The Board must deal with the property line.

Chairman Beggs said when Mr. DePalma comes to the next meeting, it would be good to have a map showing all the dimensions.

Mr. DePalma's daughter asked why they were given a permit to begin with if now they are questioning it.

Chairman Beggs said basically if this structure was constructed closer than 25' to the side property line, a variance should have been granted before the structure was allowed to be built.

Mr. DePalma said he told Mr. Lamson that he only had 19' and when he showed him the right-of-way he approved it.

Mr. Langey said the Zoning Ordinance says 25' is required which is why a variance is needed.

Mr. DePalma asked why he was given a permit in the first place.

Mr. Langey said this Board can only deal with the variance. He asked if the neighbor has said what his objection is with it being there.

Mr. DePalma said they just don't get along.

Chairman Beggs noted the applicant stated the neighbor has a business and asked Mr. Langey if it was a permitted business.

Mr. Langey said the applicant could call the Code Enforcement Officer and he could go out and check on the property. He would recommend they bring their concern to the Code Enforcement Officer.

Mr. DePalma's daughter asked why. She said that's really not their bother. Their bother is to get this variance.

Mr. Langey said many times the Code Enforcement Officer must receive a complaint about a violation to find out about it.

Mr. DePalma's daughter said it's basically their word against the neighbors. They are more concerned with the variance than the neighbor's business.

Mr. Langey said you need to make an argument for your application.

Chairman Beggs asked if the documentation should show dimensions and be initialed by the surveyor.

Mr. Langey asked who prepared this and drew the house on it.

Mr. DePalma said the surveyor did.

Mr. Langey said it would be nice to have a stamped survey showing the house and dimensions on it. The Board could schedule a public hearing for next month and the applicant could supply the necessary information in the mean time. He asked who told them to come to this Board.

Mr. DePalma said Mr. Lamson did.

Mr. Langey asked Mr. Lamson if he received a complaint about this.

Mr. Lamson said yes. He sent them a letter stating they were in violation.

Mr. Langey asked Mr. Lamson for the history of the building permits for this property.

Mr. Lamson said in 1997 Mr. DePalma came in for a building permit. When Mr. Lamson saw the right-of-way, he made a mistake as he believed the right-of-way was actually owned by Mr. DePalma and issued a building permit.

This case will be scheduled for a public hearing in January. Someone will be representing Mr. DePalma as he will be in Florida.

Mr. McCarthy was not present to discuss his zoning interpretation question.

Mr. Langey said he talked to Mr. McCarthy when he came before the Planning Board. He owns Deer Run Apple Farm on Route 11A. He wants to build a pole barn on the other side of Route 11A for a cider press and cell apple cider and produce out of the building. It's a separate tax map number. He isn't sure if this would fall under an expansion of a non-conforming use.

Chairman Beggs said he would have to supply this Board with a survey. He will need to show this Board how it's zoned and exactly what he wants to do.

CASE # 548 – Appeal of Donna Coty for a Specific Permit for property located at 2471 Route 11 south approximately 1/8 mile south of the Route 20 and Route 11 intersection on the west side of Route 11 in a Hamlet District.

Ms. Coty said she wishes to relocate her chiropractic business at 2448 Route 11 south to 2471 Route 11 South. Her business is currently in the building behind the Peanuts Day Care Center. She is going to purchase the real estate building at 2471 Route 11. She is here tonight to get approval to do this. She submitted a map of the proposed parking lot. The property she is located at now has been purchased by Ted Amidon and it's now residential. The parking at the current site has become very dangerous. She has hired Mike Cook to do the excavating and will square off the parking lot. It will be similar in appearance to the vet's parking lot across the street with the fencing and landscaping so there will be a limited access to Route 11.

Member Butkus asked if there is a drainage ditch there.

Ms. Coty said yes and they will be staying away from it. She doesn't see an increase in the amount of patients she will be treating. On the edge of the parking lot there is a very old rotting tree which is unsafe. Mike Cook will be removing that tree and some trees near the building. She is not proposing a lot of changes. She just wants to make it a little safer entering and exiting the parking lot.

Mr. Engelken said the lot is approximately 75'.

Member Butkus asked how many parking spots are required.

Mr. Langey and Mr. Ralph researched this and advised 1 spot for every 3 people.

Ms. Coty said the lot is 186' deep so they could extend the parking lot if they needed to.

Chairman Beggs said everything Ms. Coty proposes doing are things this Board can work with her on. A public hearing will be scheduled for next month. He asked her to get the dimensions of the building from the property lines, depth of the parking lot, and label where the leach field and well are located on the property so when they look at the map, they will have answers to a lot of their questions.

Ms. Coty asked if she can do anything for one month.

Mr. Langey said it would be against the law for this Board to approve her application tonight.

Ms. Coty asked how long it will take after the public hearing.

Chairman Beggs said a decision can be made after the public hearing.

Mr. Kuhns asked if there isn't something about putting something up within the right-of-way of the road.

Ms. Coty will check on this because she remembers there's something with the county setbacks re: fencing, etc.

Mr. Langey said to have the county send a letter stating they will sign off on her plans. It's an existing driveway.

Chairman Beggs said it appears based on what she has shown the Board tonight, that he personally doesn't have a lot of problem with this. This will be scheduled for a public hearing next month.

CASE # 542 – Continuation of appeal of Claire Watson for an expansion of a non-conforming use at 2980 Sentinel Heights Road in an Agricultural/Residential District.

Chairman Beggs advised he and Mr. Langey have spent some time together reviewing the facts. The attorney at the Chairman's request, has put a list together of the proposed potential findings of fact from the record for the Board to review. At this point in time, it's a matter of discussion. Once the Board has reviewed all the proposed findings, they will be in a position to make a decision. He reviewed the following

PROPOSED POTENTIAL FINDINGS

1. All of the requested expansions are or have already been implemented, constructed by the applicant without the Board's prior approval;

2. The previous approvals by this Board in 1981 and 1994 were never meant to allow commercial development at the level currently taking place on site including the products sold and square footage of the structures;

3. With regard to the earlier applications by the applicant, prior specific permits were erected upon claims by the applicant that they would not be expanding further.

4. The 1981 approval for a specific permit to allow erection of a 96' x 26' greenhouse was granted on the conditions that:

    a. Evergreens approximately 4 feet in height be planted along the entire 96 foot length of the west side of the greenhouse fronting Sentinel Heights Road for screening purposes);

    b. the sign to be placed on the property shall read "Watson's Farm" and conform with code;

    c. no chemicals effluent or other similar wastes shall be discharged from the greenhouses;

    d. the greenhouse comply with all other aspects of zoning.

5. The Board finds that conditions 1 and 2 of the 1981 approval were never met and the applicant currently is in violation of the conditions that:

    a. only a 96' x 26' greenhouse be erected.

b. the applicant plant 4 foot high evergreens along the 96' length (west side) of the greenhouse;

c. the signage is not in compliance with the conditions of the 1981 resolution;

d. the greenhouse does not comply with the other respects of zoning including the sale of items more associated with a garden center;

6. In 1994, the Board approved an additional 2 greenhouses at 120' x 17' and 27' x 96' respectively;

7. Under the 1994 application, SOCPA conditioned the specific permit upon the petitioner obtaining a commercial driveway permit from the OCDOT;

8. The ZBA in 1994 did not overrule said condition but it appears the applicant never obtained said permit until after submission of its application in 2002, nearly 8 years later;

9. The 1994 approval only approved additional greenhouses at a size of 120' x 17 and 27' x 96'. It was recently learned that both structures are in violation of the resolution;

10. Additionally, the 1994 resolution conditioned the use of the two greenhouses on the same being shielded from Sentinel Heights Road by a 4' barrier of shrubs or trees along Sentinel Heights Road which is to be in place 30 days from June 14, 1994;

11. Testimony and facts were received showing this condition was not met;

12. Additionally, the 1994 specific permit was conditioned upon reduced hours of operation as follows: 9:00 a.m. – 7:00 p.m., Monday through Saturday and 12:00 p.m. to 5:00 p.m. on Sunday from May 1st though December 31st.

13. Testimony and facts were received showing that this condition was not met.

14. Under the 1994 resolution, the ZBA recognized the petitioner had a prior non-conforming use to sell agricultural and horticultural products not grown on the property in variance with the Ordinance which does not allow the sale of products not grown on the property in an AR-District;

15. The ZBA at the time of the 1994 resolution (and has as a matter of review considered the original 1994 application) concluded and determined that those agricultural/horticultural products were to be limited solely to living plant matter and the consequent pots and containers necessary to transport such sales home for

the consuming public and was not meant to allow or recognize the sale of general retail items such as small gardening tools, clothing, wares, chemicals, etc.;

16. A review of this application and the record of the 1994 application fails to show any prior history of the applicant selling trees or shrubs as a legal non-conforming use other than the bare conclusory statements of the applicant's legal counsel in the 1994 application;

17. A review of the history of the applicant's use of the premises demonstrates that the applicant has on numerous occasions erected structures without Board approval and has in the past been directed to remove such structures;

18. The ZBA recognized that the area in question, this portion of Sentinel Heights Road is primarily and predominantly residential in character;

19. The immediately surrounding properties and their uses are exclusively residential with the exception of the applicant's greenhouse business;

20. The intention of allowing the greenhouse in 1981 and its expansion in 1994 was to allow a controlled "farm stand" natured greenhouse operation and not to create a multi use garden center with numerous oversized buildings and sales;

21. Enlargement at the parameters sought by the applicant (which have been already illegally constructed and conducted) have already begun to change the residential character of the neighborhood and have had a negative impact on neighboring properties;

22. The classes requested have an enrollment of up to 14-25 participants which may generate up to as many additional vehicles into the site in a short period of time;

23. Testimony was received indicating that lights emanating from vehicles leaving the greenhouse operation for both the craft classes and the general sales have been disruptive and have interfered with the use and enjoyment of the neighboring residential properties;

24. Tractor trailer traffic has also been an interference with the enjoyment of the premises; particularly with ingress and egress from the site - - on one occasion a tractor trailer visiting the site physically damaged a neighboring property;

25. Evidence from the applicant has shown that their garden center which has operated since 1995 at its Route 11 location has been discontinued and much of the operation has been moved to the Sentinel Heights Road location, including the sale of shrubs, trees and retail items not generally associated with a greenhouse operation;

26. The Board has reviewed and considered the findings and recommendations of the Onondaga County Planning Board dated May 7, 2002 and October 7, 2002, and the ZBA is in general agreement with those findings and recommendations and hereby adopts the said findings, including:

    a. the request is for a major expansion of a non-conforming use in an A-R District;

    b. the original special permit in 1994 recognized a legally non-conforming use which was seasonal and at a smaller scale;

    c. the proposal represents multiple uses (arts and craft classes, sale of hardware and a year round operation);

    d. a new building was constructed beyond the original dimensions of a previously existing building;

    e. use of the surrounding property is primarily residential;

27. The Board has reviewed and considered the findings and recommendations of the Town of LaFayette Planning Board and the ZBA is also in agreement with those findings and recommendations and adopts the said findings, including:

    a. the neighborhood at the Sentinel Heights location is more in the character of residential rather than business;

    b. non-conforming uses are meant to either cease or move to a different location;

    c. the business expansion as proposed is too large for a residential area; and

    d. the negative impact on the value of neighboring properties due to the enlargement of the business;

28. Those uses on Sentinel Heights Road which are not strictly residential are not in the immediate neighborhood and do not rise to the level of retail traffic and sales as the proposed use;

29. Use of the greenhouse business on a year long basis will not be detrimental to the area subject to the conditions discussed herein;

30. Limitations of operating hours to one hour before sunset on a year long basis will mitigate the identified problem of lights emanating from vehicles ingressing and egressing from the site;

31. One of the greenhouses (Greenhouse #1) encroaches upon the premises to the north and must be modified to come into compliance with the required side yard set back;

32. Parking and ingress and egress do not appear to be sufficient for safe turn around or adequate for the number of customers. The applicant is directed to comply with the zoning code and remove all materials in the designated parking areas;

33. Correspondence has been received from the County Department of Transportation dated August 19, 2002 regarding the commercial driveway permits for such premises. In said correspondence the Department of Transportation identified two concerns with the commercial driveway. The applicant is directed to satisfactorily address those concerns identified as 1) on sight capability for tractor trailer turn around and 2) installation of at least a 40' asphalt apron at the base of the driveway;

34. The use of premises for instructional classes was not established as a prior legal non-conforming use. A review of past zoning ordinances in the Town of LaFayette does not make such uses legal in AR Districts;

35. The ZBA recognizes the Watson family has provided the Town of LaFayette with a unique service over the years in the form of a greenhouse operation.

36. The ZBA has become aware through the hearing process of DEC wetland violations which have occurred on the premises and it appears that the applicant, Claire Watson, has entered into a consent order to comply with all DEC mandates;

37. The ZBA has had contact with the DEC which has issued its consent to the ZBA to assume Lead Agency status for purposes of SEQR and by letter of November 7th the DEC has issued its opinion of no objection to a finding of a negative declaration for purposes of the application;

38. The applicant has represented that no aspect of its landscaping business will occur at the premises and no heavy equipment or non-greenhouse related equipment will be stored at the premises;

39. With respect to Greenhouse #1, the Board finds said greenhouse to have been approved at a total of square footage of 2,496 sq. ft. (26' x 96'). However, the greenhouse currently exists at a total square footage of 3,580.2 sq. ft. (102' x 35.1'). This amounts to an increase of 43.44% (1,084.2 sq. ft.);

40. With respect to Greenhouse #2, the Board finds said greenhouse to have been approved at a total square footage of 2,040 sq. ft. (120' x 17'). However, the greenhouse currently exists at a total square footage of 2,755.5 sq. ft. (110.2 x 27.5'). This amounts to an increase of approximately 35% (715.5 sq. ft.);

41. With respect to Greenhouse #3, the Board finds said greenhouse to have been approved at a total square footage of 2,592 sq. ft. (96' x 27'). However, this greenhouse currently exists at a total footage of 2,631.5 sq. ft. (95' x 27.7'). This amounts to an increase of 1.52% (39.5 sq. ft.);

42. With respect to the sales building, the evidence shows it to have been previously approved at a total square footage of 728 sq. ft. (14' x 52'). This building as it exists has a total square footage of 1,607 sq. ft. This amounts to an increase of 120.74% (879 sq. ft.);

43. The request as a whole, to increase the size of Greenhouse #1 by 43%, Greenhouse #2 by 35% and the sales building by over 120% and to allow year long operations during the requested hours, plus conduct classes clearly, as suggested with the OCPB and the Town of LaFayette Planning Board is an over utilization of the site and is not appropriate for this lot and location which is residential in character. The oversized buildings and expanded uses, as a whole, will be and currently are unreasonable, detrimental to the neighboring properties and evidence of these impacts has already been related to the Board.

44. The planting of screening trees was not accomplished on a timely basis in the past and is not currently sufficient to shield the business use on the premises;

45. Parking for the business has resulted in cars and trucks on the side of the County road and on the lawn of the subject premises. No parking should be allowed on the road sides or on the site other than designated parking spots on the plan;

46. All trucks and delivery vehicles servicing the site shall be limited to day light hours and tractor trailer traffic shall not exceed _____ times per year, as per the testimony of the applicant;

47. The use as proposed, at the larger scale proposed, will be (and has been) more discernable for surrounding properties since the unapproved expansion has the impact of negatively affecting the character of the surrounding neighborhood and their enjoyment and use;

48. Testimony from the public has shown some increase in traffic since the expansion has occurred and since the applicants have left their Route 11 location;

49. The applicant has submitted information showing that at peak volume periods the maximum number of customers at the site would be approximately 45 people;

50. The applicant has stated the site receives one 18-wheeler in December of each year to deliver soil and mulch; two 18-wheelers in April to deliver trees and shrubs and one 18-wheeler in February to deliver plants and shrubs. The site is also serviced by small trucks including box trucks and 10-wheelers;

51. The applicant has submitted proof of Onondaga County Department of Health approval for the well and septic system dated May 2, 2002;

52. Photographic evidence shows products sold at the retail store to consist of wrought iron hangers and decoration stands, clay pots, baskets not typically associated with carrying plants, gloves, hats, lawn ornaments, gifts, decorative items, watering cans, pictures, wall hangings, decorative pottery, potting soil, insecticides, herbicides, plant food, hand tools, bird feeders, and gifts;

53. Other photographic evidence shows the plantings recently placed in the area does not adequately screen Greenhouse #1, a long white colored structure in excess of 12 feet in height;

54. It appears the classes and instructional activities have previously been occurring at the former Route 11 location which is located in a business district and such classes charge a fee for materials and for registration;

55. The applicant indicates the operation currently employs 3 full-time employees and 11 part-time employees with a maximum number of employees on site at any one time at 8 employees. Evidence prior to the expansion has shown that the operation included a total of 3 employees;

56. The premises contain DEC protected wetlands;

57. The premises are equipped with security lighting;

58. The County driveway permit requested by SOCPA in 1981 was obtained by the applicant on July 8, 2002.

59. Pesticide application at the site have been shown to be in compliance with all applicable regulations and laws;

60. Applicant will be required to obtain all necessary DEC or Army Corps of Engineer wetland permits and abide by all DEC regulations relating to use of the premises;

61. The applicant has advertised that its garden center once located at Route 11 in LaFayette is now located at 2980 Sentinel Heights Road;

62. Residential houses exist directly across the street as does a residential driveway. Testimony has established that at least on one occasion a tractor trailer damaged neighboring property;

63. Under the 1994 approvals, the granting of the greenhouses was a maximization of the use. Further expansion has and will increase traffic, customers and continue to alter the character of this portion of the neighborhood;

64. The applicant has adequately addressed the issue of dust emanating from the site by paving 50 feet of the existing driveway;

65. The garden center and the greenhouse operation, according to information submitted from the applicant's web site, have been combined at the 2980 Sentinel Heights Road location;

66. Classes have also included crafts and photography;

67. No parking, standing or loading of any vehicles should occur on the site other than the designated parking areas;

68. No on-street parking should occur at the site;

69. A garden center operation is not an allowed use in an AR District and there is no evidence that a full scale garden center was ever a legal non-conforming use at this site;

70. The building permit issued on or about November 2001 was issued in error without the required preapproval for an expansion as necessary from this Board. Further, the building was built even in excess of the permit mistakenly granted;

71. The evolution of the comprehensive plan for the Town of LaFayette, in this Board's opinion, does not include unlimited expansions of non-conforming uses or overutilization of land areas in residential neighborhoods;

72. The structure and premises should not be used as a garden center but should be limited to a greenhouse operation as previously approved;

73. Plants, trees and shrubs have been brought in from other growers and simply sold again without being regrown and the intent of the 1994 resolution was not to allow this;

74. In granting the 1994 application, it was understood that the trees and shrubs would be moved to the applicant's Route 11 operation which is more in line with business type sales;

75. It is also found that the proposal, at its requested size and extent is not appropriate for the lot or this location since it creates an overutilization of the land area;

76. The expanded use clearly has been unreasonably detrimental to neighboring properties with regard to dust created, noise generated from its increase, lights and its appearance as a commercial garden center;

77. This portion of Sentinel Heights Road is not intended for such an expansion of a commercial use and to allow the expansion will endanger its residential character unless the below conditions are adhered to; nor does the comprehensive plan for the Town include such a change to the actual use requested in this A-R District;

78. A more limited operation (such as that previously approved) would provide an appropriate and suitable transition between the neighboring uses in the area.

Chairman Beggs said these are all the possible findings that Mr. Langey and he came up with in their meeting after reviewing all the information brought by all the parties at that time.

Mr. Langey said that is correct. All these proposed potential findings can be found in the documentation provided and testimony given.

Ms. Oot asked if a fact didn't have to be true.

Chairman Beggs said these are all the testimony, submissions and facts this Board will deal with.

Mr. Langey said this Board will determine what the facts are.

Ms. Oot confirmed they are submissions at this point.

Mr. Langey said these are proposed potential findings at this point. The board may accept, reject, edit or otherwise change these proposed findings.

Chairman Beggs said they are from the documents, pictures, etc. submitted by the applicant and opposition and government agencies.

Ms. Oot said a fact has to be true.

Chairman Beggs said this Board will qualify the information submitted as facts.

Mr. Langey said this Board is the finder of fact in this case. People outside of here might believe something to be true or not true. The Board will determine what they accept as fact or not fact.

Chairman Beggs said you could say all these are rumors. Whether they are fact or fiction is up to this Board to decide.

Mr. Langey said just like a judge hears a case and must decide what findings are true and what are not true.

Chairman Beggs asked if there were any of the items anyone on the Board wished to comment on or ask more questions about at this point.

Member Kuhns said on page 1, what is wrong with the signage?

Mr. Langey said the sign was to be “Watson Farm” and the sign at this point in time doesn’t indicate that. In 1981 the approval was granted that any sign would read “Watson Farm”. The sign there now reads Watson Greenhouse. This was something pulled out of the records.

Member Kuhns reread # 16. He said he thought he read in the 1994 information that this was allowed.

Mr. Langey said to review the 1994 information and make a decision on this.

Chairman Beggs said back in 1994 as it was discussed, if you imported plant material and it came in as a seedling and it spent a season in the soil growing larger and then was resold, that was recognized as an acceptable practice. In other words, it spent time in the owner/applicant's possession enhancing the product because not everything is grown from seed today. Depending on the plants, you may have a number of different ways plants are grown. As he recalls it, back in the 1994 resolution that was what they came to agree upon.

Member Butkus said that is what's in the minutes too. He asked if just above item 28 there is more information to follow as it ends with the word and.

Mr. Langey said there is nothing missing here. The word 'and' was found in # 26 too and he will delete them both.

Member Kuhns asked if they had to make a determination on the SEQR.

Mr. Langey would recommend that they make everything all at once. Before the Board makes it's final motion, it will address the SEQR. From these facts, the Board may introduce the determination.

Member Kuhns would suggest their hours be 9:00 a.m. to 7:00 p.m. but not to exceed sunset. That way the light situation goes away.

Chairman Beggs said this was a concern he and Mr. Langey discussed.

Member Drumm believes you could handle this by stating spring, summer, fall and winter hours. If you don't do this, the sunset time will change every day.

Member Kuhns said you could even say they are authorized for so many hours of operation a year.

Mr. Langey said the hard part of that is how do you police it? If they are granted to operate year-round, they must be able to advertise their hours.

Member Butkus suggested stating 9:00 a.m. to 7:00 p.m. or at sunset, which ever is earlier.

Member Kuhns asked in reality is 7:00 p.m. in a residential district reasonable? Are Sunday hours reasonable?

Chairman Beggs can see where Sunday hours in May or some months might be beneficial. However, Sunday hours in January, how would that be beneficial?

Member Kuhns believes their first month of increased sales is April.

Chairman Beggs suggested stating no Sunday hours during November, December, January and February (the winter months).

Member Butkus would like to keep it simpler than that.

Chairman Beggs said if the Board took those 4 months as they are the shortest days and limited the hours of operation to no later than 4:00 p.m. that would address the issue the Board discussed last month regarding visibility and lighting. Another topic that came up was screening.

Member Drumm said if they had planted the trees when they were suppose to plant them, they would be 10-15' high now.

Chairman Beggs suggested that the business be screened from neighboring properties on Sentinel Hgts. Rd. so that the business is not visible from Sentinel Hgts. Rd. and the neighboring property owners. The applicant is in that business so she can decide how she wants to do this. A berm could be put up.

Member Drumm asked what the Board decided on re: November, December, January and February for Sunday hours. Would it be 12:00 -4:00 p.m.?

Member Kuhns said there would be no Sunday hours during those 4 months.

The Board agreed.

Chairman Beggs said by having set hours, the applicant can communicate this to the customers.

Member Butkus recommended 9:00 a.m. to 7:00 p.m. the remainder of the months.

Member Kuhns said you will be back into the lighting issue for March and October as daylight savings time hasn't kicked in.

Mr. Langey agrees if you can come up with a firm time, it will be easier to enforce.

Chairman Beggs said easier to enforce and easier for the applicant to advertise their hours.

Mr. Langey said a suggestion might be to check with the Farmers Almanac.

It was suggested that truck deliveries only be made during operating hours.

It was recommended March, April and October the closing time be 5:00 p.m. and the remaining months (other than November, December, January and February) the closing time would be 7:00 p.m. Sunday hours would be 12:00 p.m. to 5:00 p.m. for March, April and October and 12:00 p.m. to 7:00 p.m. for remaining months (other than November, December, January and February).

Member Butkus said on the commercial driveway permit # 33, it says 40' and under # 64 it says 50'.

Mr. Langey said they were required to do the 40' and they actually did 50'.

Member Butkus said regarding the commercial driveway permit it says it won't allow water to drain onto the road. By paving it, this might happen.

Mr. Langey believes the Watson's put the 50' in there to keep the dust down.

Member Butkus asked where all the photos are.

Mary Jo said in the file.

Chairman Beggs asked if the Board is satisfied with the hours.

Member Butkus said #46 should be amended to operating hours.

Member Drumm doesn't know how you could ever police tractor trailer deliveries.

Member Kuhns doesn't see how they can handle a tractor trailer going in and out of there.

Mr. Langey said the gentleman from the county said there is sufficient room for one.

Member Kuhns said they receive deliveries where he works all the time and some drivers are good and some are not. He doesn't see how they can turn around if they drive in.

Mr. Langey said the gentleman said if they move all the stuff out of the driveway/parking lot, he thinks one could turn around there.

Member Butkus asked about parking spaces.

Mr. Langey said the plan was for 18 spaces. You could specify they must have a the number of spaces shown on their plan and nothing else can take up that room.. The Board can state a tractor trailer must go nose in and nose out. His understanding is you can't back a vehicle onto a county road. He asked Greg Watson if they can turn around on the property or not.

Mr. Watson said they have. The applicant needs to clean some things out so they can.

Ms. Oot said he showed them exactly what he wanted done.

Mr. Langey said the applicant was to address the concerns about cleaning up the turn-around area.

Chairman Beggs said the Board could state if there are any deliveries to the property, they shall have adequate room to drive in and drive out and turn around on site with no on-street parking for loading or unloading, etc. That is the applicants responsibility.

Member Butkus asked Mr. Langey if the proposed potential findings will be part of the final decision.

Mr. Langey said the resolution will state: "We find the following regarding this case…"

Chairman Beggs said it could be the Board grants or denies based on these findings. One of the things he would like to bring up which has been a continuous problem since 1981 is the visibility aspect. How would this Board request the applicant address this issue? This has been a concern of the resident's for quite some time.

Ms. Oot said the business was there before many of the resident's.

Mr. Murry said he purchased the property from his parents in 1993 and finished paying for it in 1996. The white building in the back was not there when he purchased the property.

Mr. Langey said the Board could set a date when it wanted the screening done by and state if a tree dies, it must be replaced within a certain time-frame and the screening must be maintained year-round, year-after-year.

Member Butkus said it could be a fence.

Chairman Beggs would suggest the screening be the applicants choice. He thinks this Board could state that the property will be screened from the neighboring property owners so the buildings can't be seen.

Member Kuhns added and in compliance with the Zoning Ordinance.

Chairman Beggs said the business shall be screened from neighboring property owners and passing-by traffic on Sentinel Hgts. Road. This Board has had guidance and direction from Onondaga County Planning Agency and the Town of LaFayette Planning Board. They take a very dim view of expansion of the subject property. He would suggest the Board approve square footage as was granted at the end of 1994 and let the applicant determine how the square footage is to be divvied up. The total occupancy now is in excess of 10,000 sq. ft. without permits from this Board. It has been suggested by the Onondaga County Planning Board that the business may be able to exist as approved in 1994. If this Board stuck to that square footage, we haven't enlarged the business. This Board has discussed expanding the hours of operation. The applicant is looking to expand the business with the size of the buildings constructed. If this Board allows them to choose what buildings they want to arrange within that square footage, he personally doesn't have a problem with that.

Mr. Langey said in the County Planning's recommendation they are saying the Watson's would have to cut off chunks of every single one of the buildings.

Chairman Beggs is saying to let the applicant decide what buildings they want to decrease. He would suggest that they keep the buildings in the same general area.

Member Drumm would say they can't move any building from the location it's at now. They can only make them smaller or remove them.

Chairman Beggs would recommend all buildings comply with the setbacks.

Mr. Langey said they do have one building too close to the property line.

Member Butkus asked about the contiguous property.

Mr. Langey said County Planning said all this is conditioned upon getting the subdivision approval to combine the two properties.

Member Butkus would like to go through this and put the items that are important to him down and then at the next meeting everyone can state what items are important to them and the Board could combine them all.

Mr. Langey would recommend for the Board to decide all the facts they deem to be true and these facts can be used in support of their decision. The whole Board must agree on the findings being adopted by the group.

Member Butkus said 7,856 square feet is what it was suppose to be and now it's at 10,575 square feet.

Chairman Beggs said he is not in support of any instructional classes.

Member Kuhns feels it's a stretch to put the classes in any Agricultural District.

Mr. Langey asked the Board to decide what conditions they want to have on this application if they decide to approve parts of it.

Direction signs were discussed. It was determined that signs cannot be put on other people's property unless the property owner applies for a sign variance.

Mr. Langey understands people are having a difficult time locating the property. He would suggest the advertisements give really good directions on how to get there.

Chairman Beggs feels this is another problem with having a business in an Agricultural/Residential District.

Member Kuhns said the applicant could go to the property owner and ask them to apply for permission to have a sign.

Mr. Langey said another big item is what merchandise can be sold. Another item mentioned was the wetlands. He spoke with a gentleman from the DEC who said he will sign that map. Mr. Langey hasn't received it yet. The Board could have a condition that signed DEC wetland delineation map must be received.

Member Butkus said if people have any doubts about zoning, they should come to this Board for clarification. The Code Enforcement Officer is not suppose to issue a building permit unless all the zoning requirements are met. Once in awhile a mistake happens. An applicant goes to Mr. Lamson first and then here. Even if the Code Enforcement Officer issues something in error, this Board still has the power to grant and deny variances and to do what needs to be done.

Chairman Beggs said this Board is basically the Board of Appeals. It is not the first line of attack. If the Code Enforcement Officer has any problem with an application, the applicant has the right to come to this Board and plead their case and ask for relief. This Boards decision is based on the facts presented.

Member Drumm discussed the size of pots that plants can be sold in. The concept is the plants must be grown on site. If they were planted in a pot, that would be grown on site.

Member Kuhns said the 1994 resolution discussed the sale of items not grown on the property.

Ms. Oot said they have been doing this since 1994. They have followed the 1994 resolution in their sales. She thinks rather than this Board being hung up on the 1981 and 1994 information, it should be looking at our nation and should not be putting people out of work in a contributing business.

Member's Drumm moved and Butkus seconded the motion for the Zoning Board of Appeals to hold a special meeting on Tuesday, December 17, 2002 at 5:30 in the Meeting Room of the LaFayette Commons Office Building on Route 11 in the Town of LaFayette to discuss CASE # 542 – the appeal of Claire Watson for the expansion of a non-conforming use and any other matters that might come before the Board. Motion passed unanimously.

Member's Drum moved and Butkus seconded the motion to adjourn. Motion passed unanimously.

The Zoning Board of Appeals Meeting adjourned at 11:10 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary