

Minutes of the Town of LaFayette Zoning Board of Appeals Meeting held at 7:30 p.m. on April 6, 2004, in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette.

Present: Stephen Beggs, Chairman
Albert Miller, Member
Daniel Kuhns, Member
Jerry Doolittle, Member

Absent: Robert Drumm, Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, ZBA Attorney
Robert Haight, Applicant

Chairman Beggs called the Meeting to Order at 7:30 p.m. Everyone introduced themselves.

Chairman Beggs asked if there were any corrections or additions to the December 9, 2003, Zoning Board of Appeals Meeting Minutes. There were none.

Member's Miller moved and Doolittle seconded the motion to accept the December 9, 2003, Zoning Board of Appeals Meeting Minutes as submitted by the Secretary. Motion passed unanimously.

Chairman Beggs said at this meeting the Board will review what the intent of the applicant's are, review the records they have on file, ask any questions and then clarify what the Board might need that is not in the application so we are all set for the public hearings. Tonight will be a planning session for each of the cases before the Board.

CASE # 564 – Appeal of Robert Haight for a side yard variance of his property located at 2095 Deer Run Rd. on the west side of Deer Run Rd. approximately 291' from the Holcomb Hill and Deer Run Rd. intersection in an Agricultural/Residential District.

Chairman Beggs asked the applicant to go over what he wants to do. The application states he is hoping to put a 120 square foot woodworking shop on his property. He believes the applicant has 49' between the garage and existing property line. The side-yard setback required is 25' from the property line.

Robert Haight explained the drawing he submitted of his property. He said there are a lot of woods on the site. He doesn't want to disturb the woods. His neighbors have told him the young children love going into the woods to play and have picnics. There is a lot of brush where he is proposing to put the shop. He spoke to the neighbor he would be closest to and he has no problem with it and liked the idea. He has spoken to the

neighbors on Holcomb Hill too. No one had any objections. The color of the shop would be the same as his house.

Member Doolittle asked if he would need water in the shop.

Robert Haight said no.

Member Doolittle asked about the building on the neighbor's property.

Robert Haight said his shop would not create back-to-back buildings.

Member Doolittle asked how far the front of the building would be from the house.

Robert Haight said about 24 to 25'.

Chairman Beggs asked if he was proposing to put the building 1' from the property line.

Robert Haight said yes.

Chairman Beggs said in general, this Board would frown on a building that close to the property line as the owner needs to have access to all sides of the building for maintenance. The variance would go with the land. To have something this close to the property line would require this Board to look for hardship as to why the building can't be closer to the house. The Board isn't saying to put it right up against the house.

Member Miller said it would be good to have it at least 10' from the property line.

Robert Haight said he was just trying to leave as much lawn as possible. There is a waterline there too. He can maintain the building if it's 2' from the property line.

Chairman Beggs said to grant a variance this Board has to look at practical difficulty as far as good reason so the Board can support the granting of a variance which in this case would be a 24' variance. He can agree that the applicant wouldn't want the structure on top of a waterline but couldn't the building be centered? The Board could maybe grant a 12' variance so the building can be maintained all around. No one knows what the future will be for this property. The Board is looking for a good reason why the building can't be constructed 25' from the property line. The more drastic the variance granted would depend on the hardship of why it can't meet the zoning regulations.

Robert Haight said he believes it would greatly alter the landscaping of the property. It would drastically change the look of the property without a variance for the building. Centering the building would make it hard to provide access to the back lawn. There is a slope to the yard. He had a gentleman come out to look at the land. He believes they will have to re-examine their plan and maybe bring in some fill.

Member Kuhns asked if he had thought about attaching it to the existing garage.

Robert Haight said that was their first option. They had a couple of people come out to look at the site. He asked if the Board was familiar with the property.

Chairman Beggs said he did visit the site over the weekend.

Robert Haight said that his first preference would have been to be able to walk from the garage to the shop. However, if you look at the rooflines, you would have to move the garage out. It would cost triple to do it this way rather than having the shop a separate building. The only way to maintain the integrity of the house and to attach the shop would be to move the garage forward and attach the shop to the back of the garage.

Member Doolittle agreed the neighboring property owner (the Vredenburg's) would probably not be affected by the building, however, there is an existing culvert and driveway and the applicant could erect the building in that spot.

Robert Haight said in that wooded area there is a stream that goes right through it. He is sure you would have to change the natural flow of the water.

Chairman Beggs said to be 1' from the property line, there has to be some real practical difficulties.

Robert Haight asked if 4 to 5' would be reasonable so they could keep it as far away from the house as possible.

Member Doolittle said 5' is better than 1'.

Member Miller still believes there should be access to all sides of the building. No one knows in the future what might happen. The neighboring property owner could bring in fill and want to put a building 1' from his property line because this gentleman was allowed to. The other problem he has is that he doesn't care for the proposed building to be in front of the building line. The applicant has plenty of room to move back.

Robert Haight said they thought about it but didn't think it would be as attractive as they would like to put overhead doors in the front of the building.

Member Miller said aesthetics don't really enter into the zoning.

Member Kuhns asked if he had thought about angling the building so it could be closer to the house.

Robert Haight said it's a very contemporary home with various angles. Everything is at a 90 degree angle now.

Chairman Beggs would recommend the applicant bring some photo's of the house for the next meeting. He would recommend the applicant speak with the contractor again to see if the front of the building can't be in line with the front of the garage.

Robert Haight asked if he could look at the possibility of a variance of 5' from the property line.

Member Doolittle said one thing you have to show is that it's not a self created hardship which this kind of would be.

Chairman Beggs said this Board is trying to seek out where the practical difficulty is for having to put the structure within the 25' setback from the property line.

Robert Haight said at this point, he may have to find the exact location of the waterline.

Chairman Beggs said those are the kinds of things this Board needs to act upon. You must have a hardship or practical difficulty as to why you can't stay within the zoning.

Robert Haight said they will put some stakes in the ground to see what they think about lining it up with the front of the garage and then they will get someone in to locate the waterline for them.

Member Miller would recommend having it 10-12' from the property line so the applicant would still be able to maintain the aesthetics of the property. If he came 12' from the property line, the building could be 13' from the current house.

This will be scheduled for a public hearing in May. The applicant will contact Mary Jo with whether he needs a 10' or 12' variance for publication purposes.

Robert Haight asked if the neighbors should come to speak in favor of this.

Chairman Beggs said at the public hearing, anyone can speak for or against the application.

CASE # 565 - Appeal of David Muraco for specific permit for a retail business dealing with home sales at his property located on the southeast corner of the Route 20 and Route 11 intersection in a Hamlet District.

CASE # 566 - Appeal of David Muraco for a specific permit for a retail business dealing with home interior decorating at his property located on the southeast corner of the Route 11 and Route 20 intersection in a Hamlet District.

A potential tenant was present. Mr. Muraco would not be present this evening as there was an unexpected death in his family today.

Chairman Beggs said he believes there have been some septic approval problems with the property. Septic approval will have to be obtained for this Board to allow anything to take place on the property.

John Langey said this would have to be referred to County Planning who would look for the County Health Dept.'s approval. This would probably be one of their conditions.

Member Miller noted the Board will need to see a survey of the property.

Chairman Beggs agreed and said the Board will need to see where parking will be. A survey should show the location from the road and how much parking space is available. The Board will be looking for some kind of plan for parking and maybe even for some signage in the front stating where to park. He asked if the businesses would occupy the entire ground level floor.

The potential tenant said both store fronts will take up about $\frac{3}{4}$ of the ground floor space. The remaining $\frac{1}{4}$ is mechanical.

Chairman Beggs asked if there is room for a third business.

The potential tenant said absolutely not.

Discussion took place regarding the septic system.

John Langey said the Board could move forward with the condition that all necessary permits are obtained. He recommended a narrative be prepared telling exactly what the applicant is proposing. It should discuss number of employees, hours of operation, etc.

Chairman Beggs said if all the necessary documents are received, this will be scheduled for a public hearing in May.

The Board asked the potential tenant what his business entailed.

The potential tenant said his business is named Design Center which is basically a layout of all vendor materials and Barden Home designs. He also runs a land development company called Land First. He is a representative of CMC Diversified Enterprises.

**Appeal of Administrative Decision Dated
February 3, 2004, Regarding Application of
Daniel Oot for Premises Located on Route 11,
Town of LaFayette (Tax Map parcel No. 22-03-
05.1)**

Chairman Beggs said he checked the Zoning Map and this tax parcel is in an Agricultural/Residential District. He had a discussion with Ralph Lamson about this property. Ralph's first thought was it would be a private airstrip. Chairman Beggs said in his opinion private air strips were put in the zoning ordinance in Agricultural/Residential District for things like a farmer wanting to use a plane to crop dust or for a resident to use for his own personal entertainment. He needs a better description of what Mr. Oot proposes to do.

John Langey advised the Board has the minutes from the Planning Board Meeting that Mr. Oot attended.

Chairman Beggs said from the minutes, he is inclined to believe it's a business.

John Langey said he attended that meeting and Mr. Oot advised he currently has a helicopter business at Hancock Airport which he would like to move to his property in LaFayette. He agreed with Chairman Beggs opinion that this is not a private airstrip. The Planning Board appealed Ralph Lamson's interpretation which is why it is before the Zoning Board of Appeals. For the Zoning Board of Appeals to appeal Ralph's interpretation, they must hold a public hearing.

Member Miller asked if this shouldn't be before both the Planning Board and the Zoning Board of Appeals.

Chairman Beggs said a commercial airstrip is not allowed in the Town of LaFayette.

Member Kuhns asked what if Mr. Oot was only flying his own personal equipment to and from the property?

John Langey said if you look at the context of an Agricultural/Residential District, it seems impossible that whoever wrote the Zoning Ordinance would think a public airstrip would be allowed. Because this property is an Agricultural/Residential District he thinks the Planning Board had a hard time thinking he should be allowed commercial flights coming in and out of the property.

Member Kuhns asked what would happen if he only wanted to land them and then store them there.

John Langey said if he meant for his own personal use, it might work.

Member Kuhns said what if he was going to pick up his customers at another location?

John Langey said it might work, however, he hasn't said this yet. He has said on record that he will be training pilots from the site, etc. The applicant is on record stating this is a commercial use.

Member Kuhns asked what if he changes this.

John Langey said then the Board will have to look at it and have him go through the different necessary studies, a long environmental review form, public hearings, etc.

Member's Miller moved and Doolittle seconded the motion to hold a public hearing regarding the Notice of Appeal of Administrative Decision Regarding Application of Daniel Oot for Premises Located on Route 11, Tax Map Parcel No. 22-03-05.1 at the May Meeting. Motion passed unanimously.

Member's Miller moved and Kuhns seconded the motion to adjourn. Motion passed unanimously.

The Regular Zoning Board of Appeals Meeting adjourned at 9:35 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary