

Minutes of the Zoning Board of Appeals Meeting of the Town of LaFayette held on October 12, 2004 at 7:30 p.m. in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette.

Present: Steven Beggs, Chairman
Robert Drumm, Member
Daniel Kuhns, Member

Absent: Albert Miller, Member
Jerry Doolittle, Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, ZBA Attorney
Vincent Maher, Applicant
Dennis Maher, Applicant
Mary Earle, Applicant
George Earle, Applicant
Ronald DeRollo, Applicant
Steven Meier, Applicant
Mike McLoughlin, McDonalds Corp.
Richard Smarten, Save the County
Bob Asanoma, Save the County

Chairman Beggs called the Meeting to order at 7:32 p.m.. Everyone introduced themselves. Chairman Beggs asked if the Board had any additions or corrections to the September 14, 2004 Meeting Minutes. There were none.

Member's Kuhns moved and Drumm seconded the motion to accept the September 14, 2004 Zoning Board of Appeals Meeting Minutes as submitted by the Secretary. Motion passed unanimously.

CASE # 571 – Public Hearing for appeal of Steven Meier for a Specific Permit/side-yard variance for an animal crematorium at his property at 2892 Everingham Rd. approximately ¼ mile north of the Route 20 and Everingham Rd. intersection in an Agricultural/Residential District. (Tax Map # 021.-01-22.4 and 021.-01-22.1).

Chairman Beggs opened the public hearing.

Steven Meier submitted an updated survey dated 10/8/2004 and was prepared by Ianuzi & Romans, P.C. He is looking for approximately 75' of relief.

Chairman Beggs said the Zoning Ordinance calls for a 500' setback. He believes putting the building where the applicant is proposing to put it will make it unable to be seen. Onondaga County Planning has responded with the following recommendations:

- 1) The applicant must obtain any required permits from the New York State Department of Environmental Conservation for the proposed site.
- 2) The applicant must provide a detailed plan for storage of animal remains on a routine basis and in case of system failure to minimize odors, vermin, and other potential environmental impacts; the applicant must also provide a plan for ash and residue disposal that is in accordance with all County, State and Federal Laws.

Steven Meier said the ash and residue will be taken to OCRRRA to be disposed of.

Chairman Beggs said the applicant has advised according to the DEC this was considered nothing more than standard waste to be disposed of.

Member Drumm asked the applicant if he will have a refrigeration storage area.

Steven Meier said yes. He submitted the plan for that last month.

Chairman Beggs asked if anyone is present in support of this application.

No one came forward.

Chairman Beggs asked if anyone is present in opposition to this application.

No one came forward.

Chairman Beggs asked for any further questions or comments from the Board. There were none.

Chairman Beggs closed the public hearing.

Chairman Beggs said the applicant is looking for a side-yard variance of 73.2' due to the geography at the site and the access to it. That is about the best he can get. A stipulation should be made stating stand-by power will be in place on site at all times and set to go in case of a power failure.

Member Drumm said the applicant said he would have a supply of gas to go for about 2 months in case delivery couldn't be made in the winter.

Steven Meier said it will be a minimum of 1,000 gallons. He will be making it as accessible as possible. He has never had truck delivery down where the building is to be located during the winter. He can get down there with his pickup truck, it's the larger trucks he is concerned about. He will be sure to keep it open for them though.

Member's Drumm moved and Kuhns seconded the motion to make this Board lead agency, this is an unlisted action and a negative declaration in the SEQR process and to grant a specific permit for an animal crematorium and to grant a 75 ± side-yard variance on the north side of the property bordering the Onondaga Nation with the following conditions:

- 1) **The proposal will be operated in strict accordance with the plans submitted with the original application.**

Motion passed unanimously.

CASE # 574 – Public Hearing appeal of George and Mary Earle for a variance on their property located on the east side of Eager Rd. approximately 1,000' north of the Apulia and Eager Rd. intersection in an Agricultural/Residential District. (Tax Map #'s 008.-03-24.0, 008.-03-19.1 & 007.-02-01.0).

Chairman Beggs opened the public hearing.

Mary Earle said they are proposing to have Lot # 3 donated to Save the County. The new map should come tomorrow.

Chairman Beggs said in the brochure put out by Save the County, they list several classifications of their property. What classification would this parcel be?

Richard Smarten said Diamonds are the properties that are more heavily developed. The Pearls are on the bottom with no improvements at all. These parcels may have posted signs on them and that's it. The middle level is Emeralds. There would be some improvements made but not many. This property may be in the middle or bottom level. They envision doing almost nothing to the property except for posting it. They don't need a lot of access. They only need pedestrian access of a 10 foot right-of-way.

Chairman Beggs said this Board had a question before regarding if the land is accessed by someone other than strictly the property owners could there be off-road parking provided in proximity to the access to the property? This application is before this Board because a lot in the Town of LaFayette must have 50' of road frontage. This parcel is basically landlocked with no road frontage. By having no road frontage there becomes a problem with parking relative to the easement and to the property that is off the road.

Richard Smarten said they don't plan to heavily advertise this property and don't expect a lot of visitors. They have some properties at the lower level that they don't advertise at all because there are endangered species on them and they don't want the visitors.

Chairman Beggs said Onondaga Planning recommends this application be disapproved. They have concerns about access to the lot.

Richard Smarten believes initially this would be a Pearl because of lack of access and lack of development. They would probably keep it that way for some time.

Chairman Beggs asked what the focus or purpose is of this 90 acres of property going into a forever wild parcel.

Richard Smarten said it's a good bird habitat. There's a ravine which is a very good habitat. It's the combination of habitats that they would like to keep forever wild.

Member Drumm said this would be for people to hike up and see.

Richard Smarten said yes.

Mary Earle said she made an error last meeting by saying that she and her husband would be in control of who could come on the property. It's up to Save the County once the land is donated.

Member Drumm asked if someone would have to have permission from Save the County to go on the property.

Richard Smarten said no. The posted signs show what the allowed activities on the property are.

Member Kuhns asked who enforces it.

Richard Smarten said they have people who live near the property who keep track of it. Sometimes they must call in law enforcement. They work with all the local towns and local law enforcement. The local stewards really help out. The Earle's will act as the stewards for this property.

Member Kuhns asked if there is any protection from encroachment on development of trails on any of the properties they have.

Richard Smarten said the top level are the ones they are developing trails on. Those are situations where there is no problem with public access.

Member Kuhns said you may determine today that this is a lower level property. What would prevent you from deciding tomorrow it would be different?

Richard Smarten said one of the conditions of the Earle's donating this property is that Save the County will not make any improvement to the property.

Member Kuhns asked if that is in the deed.

Richard Smarten said they can write it into the deed.

Mary Earle said one of the reasons they wanted to do this is because it protects their land from developing from behind them and it protects their neighbors as well. They already have one house on the ridge. If their property was opened up, it means destruction of 90 acres of land that could be kept forever wild. She would think this would also protect the Town of LaFayette. There is a lot of building going on and we could use some open space.

Member Kuhns asked if where it shows the access to the property which is on property the Earle's own but is a separate parcel, is that easement on the deed now?

Mary Earle doesn't believe so. There's an actual road that goes down through it which has always been there. This road is used regularly to maintain the property.

Member Kuhns said just because it physically exists doesn't mean it legally exists.

Mary Earle said it would go in the deed.

Chairman Beggs said for this Board to grant this application, the applicant would have to have a legal document dedicating an easement to the property.

Mary Earle said the easement will be in a transfer deed.

John Langey said Onondaga Planning has stated that the County D.O.T. has determined due to the sight distance and topographic limitations, access to proposed Lot # 3 should occur at the northernmost portion of proposed Lot # 2.

Mary Earle said they wouldn't have a problem with this except for the fact that that area hasn't been developed and it's a very difficult walk to get to Lot # 3.

John Langey asked if someone could talk to the D.O.T. and explain this to them. Even if the Board wishes to approve this application as it is, County Planning has disapproved of it and as this Board is a 5-person Board you would need 4 of the 5 members to overrule the County. His recommendation is that the applicants talk to the County D.O.T. and obtain a letter from them stating they are aware of what County Planning said and that they are not concerned with a safety issue.

Chairman Beggs said he is very concerned about the off-road parking. He takes County Planning Board's advice as guidance. He is aware this Board can't approve this application tonight but they can discuss it. He would want to see something on Lot # 1 that has the easement to Lot # 3.

John Langey said it's not actually Lot # 1. It's on a lot controlled by the Earle's but not part of the subdivision. It's located to the south of Lot # 1.

Chairman Beggs would like to see a deed granting easement through the proposed property.

Member Kuhns said the County is saying they want it on Lot # 2. If it's going to remain forever wild, why is there concern about maintaining the land and mowing it?

Mary Earle said they only mow the paths which they have done for years. There's a very steep gully if the easement is put in on Lot # 2. It's fine with them if that is where they want it put.

Member Drumm would like to see an easement for 6-12 cars to park.

Richard Smarten doesn't believe they would ever have that much traffic.

George Earle asked about the access road for the railroad track portion of the property. It's an active railroad that runs 5 trains a day.

John Langey said it seems the Board's concerns are safety concerns of parking and trail access. The applicant is proposing to use the Earle parcel for access. The County has said they would like them to use Lot # 2. Couldn't the applicant discuss this with the County D.O.T. and get a letter from them stating they are in agreement with the plan being proposed? He asked what Save the County does when they have property that has no designated parking.

Richard Smarten said they park along the side of the road.

Member Drumm said you can't park along Eager Rd. He would go for parking designated for 5 vehicles.

John Langey would really like to see a letter from the D.O.T. stating they are in approval with the Earle's proposal. If the Board decides to over-rule County Planning, they need to have a reason for over-ruling them.

Mary Earle said she hopes lack of parking won't be a reason this is turned down.

Chairman Beggs said right now the Board's hands are locked and they are trying to find a solution. If the applicant could come forward with a deed modification showing the easement as the access to the property and a letter from the D.O.T. stating their approval it would be beneficial as it would supply the necessary documentation.

Member Drumm would like to see parking for at least 5 cars. You can't park on Eager Road so what's the sense of having a right-of-way if you can't get to the property? In all that area there has to be some place you can park 5 cars.

It was decided the public hearing would be continued at the next Zoning Board of Appeals Meeting.

CASE # 575 – Public Hearing for appeal of Ronald DeRollo for a variance of his property located at 4131 Route 91 approximately 1 ½ miles south of the Route 91 and Route 173 intersection in an Agricultural/Residential District. (Tax Map # 001.-05-13.2).

Chairman Beggs opened the public hearing.

Ronald DeRollo said there's 50.23' of road frontage for Lot # 1.

Chairman Beggs read what he got from County Planning.

Ronald DeRollo submitted a letter dated 10/8/2004 from the Scott R. Bates of the County D.O.T. stating "As we have informed you in our phone conversations, we will allow you to keep the two existing driveways to your current residence (Lot 2), and will allow an additional residential driveway to be constructed for Lot 1 with the following understanding. The existing two driveways for Lot 2 remain entirely within the frontage of Lot 2, and the proposed residential driveway will reside entirely on Lot 1. It appears that this is being accomplished with the revised survey that was submitted. Please keep in mind, that there needs to be some means of separation near the property line to differentiate the two driveways for Lot 1 and 2..."

Chairman Beggs noted the applicant said he is constantly putting fill in to make the driveway adequate. The applicant has advised he will separate the two driveways.

Ronald DeRollo asked if he could use chain link fencing to separate them.

The Board felt it should be something more structural that could be more visible.

John Langey noted that County Planning wanted the applicant to decrease the driveway for Lot 2 in width to provide a minimum 5' setback from the property line. Somehow they want him to physically alter his driveway so there is 5' of space from the edge of the property line to the south. They don't want the driveway right up against the line.

Chairman Beggs said in view of the fact that the applicant only has approximately 50' frontage on Route 91 for Lot # 1 and he has a lot more frontage for Lot # 2, he would recommend putting the divider on Lot # 2 because Lot # 1 is already substandard in width.

Ronald DeRollo said if he puts a wall up, it won't be a 5' wide wall. Why does he have to give up 4' of his driveway? Why would he have to do this?

John Langey said because the County is recommending it.

Ronald DeRollo said the DOT didn't say this.

John Langey doesn't know if they read what County Planning proposed. The DOT is stating there needs to be a divider between the two driveways.

Ronald DeRollo asked who he goes to now to discuss the 5' width. Does he go to County Planning? Can this Board over-rule County Planning?

John Langey said the Board can over-rule County Planning if they want to. The applicant can go to County Planning to ask them why they put the 5' in their resolution as it's inconvenient for him. The applicant could go back to the DOT and show them County Planning's resolution and see if they will put something in writing stating they don't see a need for this. The Board could consider this in making their determination.

The public hearing will be continued at next month's meeting.

**CASE # 576 – Appeal of LaFayette Commons for a side-yard variance of his property located at 2571 Route 11 North on the west side of Route 11 approximately ¼ mile north of the route 11 and Route 20 intersection in a Hamlet District.
(Tax Map # 020.-05-10.1)**

Vincent Maher presented a map dated 10/01/2004 prepared by Wolff Garritano Architect.

Chairman Beggs asked if he had a map showing what the existing setback from the property line is.

Vince Maher said it's 39.2' right now. The proposal would require a 14' 4" variance from the north property line. They can't go to the south or west with the proposed addition.

Chairman Beggs asked why they can't go to the south.

Vincent Maher said the electric and mechanical come in on the south end of the building. There's a catch basin that comes from the other side of the road. It's a 30" pipe that goes down through there and runs to behind the building. The well shown on the survey doesn't exist. They had to drill a different well.

Chairman Beggs asked how far the pipe is from the south building line.

Vincent Maher said 18-20'.

Chairman Beggs asked if they will have adequate parking for the additional staff.

Vincent Maher said there's no additional staff. The addition is to accommodate what's already there.

Member Kuhns asked if it's possible to wrap the addition around the mechanical area at the other end of the building rather than putting it on the north end?

Vincent Maher said he presented his proposal to the Town Board before coming here. They sent a letter stating they were not opposed to this. They will be putting in 10 more parking spots.

Chairman Beggs asked what they are doing on the south end of the parcel near the Route 81 entrance.

Vincent Maher said the school did some excavating and put the soil there. The school moved several yards of fill and Soil & Water put a demonstration on re: seeding, etc.

Chairman Beggs asked if there were any further questions or comments. There were none.

Chairman Beggs advised this will be scheduled for a public hearing next month and will be referred to County Planning.

Sketch Plan Conference for Michael McLoughlin for roof alteration at McDonalds. (Tax Map # 020.-06-01.1)

Mike McLoughlin said he isn't quite sure what he was supposed to bring.

Chairman Beggs said he called and left a voice mail that the applicant should bring a print showing the building the way it is now and a print showing how it would be when it was completed. He knows you can do a lot of things with computers. The roof right now is shingled. McDonald's wants to change it to a metal roof. He confirmed the structure would be the same.

Mike McLoughlin said yes.

John Langey asked if the style would change.

Mike McLoughlin said no.

John Langey said the only thing you will be able to detect from the road is a color change.

Mike McLoughlin said correct.

John Langey said this is just a color and material change for the roof. The old resolution said it would be built in accordance with the submitted plans. The plans showed a certain style of roof which is what will be continued.

Chairman Beggs believes this Board wants to have some influence or control over what happens in the Hamlet District. If the applicant were to come back to the Board with a computer print of what they have now and what they are proposing, this Board could say they heard the case and knew what it was going to be. For the benefit of all the Members on this Board so we know what we are looking at, if the applicant provides the necessary information this will be scheduled for a public hearing at the next meeting for a specific permit.

Mary Jo advised she must have the application and material by tomorrow to be able to refer it to County Planning in time for their meeting or else this Board won't hear back before the next Zoning Board of Appeals Meeting.

Mike McLoughlin said the roof on McDonalds is a trademark. The style of the roof will never change.

Chairman Beggs said in light of the fact that this Board is charged with approving these things, computer printouts of what it looks like now and what it will look like should be on file. A specific permit application must be filed.

Members Drumm moved and Kuhns seconded the motion to adjourn. Motion passed unanimously.

The Zoning Board of Appeals Meeting adjourned at 9:20 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary