

Minutes of the Zoning Board of Appeals Meeting held by the Town of LaFayette on February 8, 2005 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: Present: Steven Beggs, Chairman
James Butkus, Alt. Member
Albert Miller, Member

Daniel Kuhns, Member
Jerry Doolittle, Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, ZBA Attorney
Sandra Smith, Councilwoman
Mike McLaughlin, Applicant
Bill Zuccarello, Applicant
Robert Shute, Rte. 11 North

Chairman Beggs called the meeting to order at 7:36 p.m. Everyone introduced themselves.

Chairman Beggs asked if there were any corrections or additions to the two meetings in December held December 14th and 17th. There were none.

Member's Miller moved and Kuhns seconded the motion to accept the December 14, 2004 and December 17, 2004 Zoning Board of Appeals Meeting Minutes as submitted by the secretary. Motion passed unanimously.

CASE # 578 - Sketch Plan Conference for appeal of McDonalds Corp. for a Specific Permit for the property located at 5861 Route 20 West approximately ¼ mile west of the Route 20 and Route 11 intersection in a Hamlet District. (Tax Map # 020.-06-01.1)

Chairman Beggs said he received a letter from the Planning Board in August when this application started. The applicant wants to change the colors of the roof. According to the ordinance since this is in the Hamlet District, it must come before this Board for approval. The applicant has supplied the Board with two colored copies. One is of the existing building and the other is what is being proposed. Currently there is a shingled roof and the applicant is proposing to change it to a copper colored roof. He confirmed the brick color of the building will not change.

Bill Zuccarello said no. Just the roof will change.

Mike McLaughlin said it will just change from the shingled roof to the copper colored roof.

Chairman Beggs asked about the window frames.

Mike McLaughlin said he will leave them the dark brown color as they match the door and hardware.

Alt. Member Butkus asked if the roof will change in size at all.

Bill Zuccarello said no, not at all.

Chairman Beggs said it will be a metal roof.

Bill Zuccarello said a steel metal roof. It's a standing seam.

Chairman Beggs said they are only changing the roof material and painting some of the trim work on the roof to match. Will any of the trim work under the roof change color?

Bill Zuccarello said just the roof beams. They will go from the green to white.

A Member asked if the shingles would be removed.

Bill Zuccarello said yes. They will be taken off and will be replaced with the metal roof.

It was questioned whether Mike McLaughlin or McDonalds Corp. should be filing the application.

Mike McLaughlin said McDonalds owns the building and the land

Chairman Beggs said according to the ordinance it would have to be McDonalds Corp. that would make the application.

Bill Zuccarello said he is the area Construction Manager.

John Langey said Mike McLaughlin can do it on behalf of McDonalds Corp.

The Board discussed the flat roof under the pitched roof with the applicant.

Chairman Beggs asked if the beams are for cosmetics or do they serve a purpose?

Bill Zuccarello said they are an architectural detail. They are lit at night. They are called a design element and are backlit.

There were no further questions.

Chairman Beggs said this will be scheduled for a public hearing next month and referred to County Planning. He asked if they had any idea how long replacing the roof would take.

Bill Zuccarello said about a week to 10 days.

Robert Shute introduced himself. He wished to bring a matter before this Board that concerns all citizens in the community. He is trying to gain some understanding as to what the Zoning Ordinance means. He would like to understand the powers of the Zoning Board of Appeals and Town Board regarding a matter involving the Code Enforcement Officer, Mr. Lamson. He has tried for some time to communicate with Mr. Lamson about a matter that he has never been able to have a decent dialogue with him about or get a response.

Chairman Beggs said Mr. Shute is coming before this Board relating to a personnel matter regarding communication with Mr. Lamson. It's not about the Zoning Ordinance.

Robert Shute said it's about the powers and duties of this Board. The Zoning Ordinance states that the Zoning Board of Appeals has the power to hear and decide appeals from and review any order, requirement, decisions, or determination made by the Zoning Officer and to reverse or affirm, wholly or partly, or modify such order, requirement, decision, or determination, making such order, requirement, decision or determination as ought to be made under the law and this Ordinance.

John Langey said this Board only interprets the Zoning Ordinance. The Town of LaFayette also has a stack of laws. This Board only can deal with the Zoning Ordinance.

One of the laws Mr. Shute is concerned about is outside this Board's jurisdiction. They don't have the power to give him the relief he wants unless it deals with a setback or how a structure is built on his lot.

Robert Shute said it does say any decisions of the Zoning Officer.

John Langey said Mr. Shute must read the whole thing. The sentence prior to what Mr. Shute is stating under # 1. on page 29 of the Zoning Ordinance states "The Board of Appeals shall have all the duties and powers conferred upon it by law and this Ordinance, including the duties and powers:..." If you read it all together, he thinks Mr. Shute will conclude the big stack of laws is outside of this Board's jurisdiction and there's nothing they can do.

Robert Shute thanked the Board and Mr. Langey for at least communicating with him. Mr. Gilligan is also a fine gentleman. Mr. Gilligan's response was totally opposite of what Mr. Lamson had told him. Mr. Lamson said he can't withdraw his citation. This is untrue. Mr. Gilligan said he does have the authority to withdraw it. He has tried very hard to work with Mr. Lamson. He attempted to have a meeting with him and was able to sit down with Mr. Sutton briefly. Mr. Lamson refused to answer any questions and didn't allow Mr. Sutton to respond. That is too bad because if Mr. Sutton had handled it, there would have been some good sense used. Mr. Lamson appeared two days after the Town Board Meeting with minutes from the Town Board Meeting and had smoke coming out of his ears. Robert Shute asked the judge to speak to Mr. Lamson to talk about this matter. She granted this and Mr. Lamson refused to communicate.

John Langey asked if this is currently before Judge Perrin.

Robert Shute said it's being heard before Judge Perrin.

John Langey said that Robert Shute will have an opportunity to discuss this with Mr. Lamson at court and can address the issues with Mr. Lamson as he will have an opportunity to ask Mr. Lamson about the reasons for issuing the appearance ticket. You can ask all the questions that the judge feels are relevant to your case. He would suggest this be done through the court process. Mr. Shute and Mr. Lamson will have the opportunity to ask each other questions.

Robert Shute said under normal circumstances that would be the case. He has been a life resident of the town so he thinks from a different perspective there. There is a very serious question as to whether there could be any fair treatment in the town justice system here with Mr. Lamson and Judge Perrin. Judge Perrin was cordial on court night and open to allow him to speak to Mr. Lamson but Mr. Lamson but the hammer down. He was outraged that Mr. Shute would go to speak to other members of the town and the Town Board to ask questions. He submitted a letter to Kevin Gilligan, Ralph Lamson and Greg Scammell suggesting a reasonable resolution for this matter and asking Ralph Lamson to withdraw the citation and have mediation. Very seldom does a matter like this get pushed into the court system. There is usually at least one personal contact from the C.E.O. He met with Mr. Sutton and he had a witness with him. Mr. Lamson totally keeps him in the dark so he has the opportunity to manipulate the situation so he can have his own vindictive goals.

John Langey said at Mr. Shute's next court appearance he can approach Judge Perrin and request for a court date and move forward so he can address Mr. Lamson. He would like to allow this Board to go home. They don't have the jurisdiction so should not have to stay here and discuss this.

Chairman Beggs said he agrees. All the Zoning Board proceedings he has been through have stated this Board only has the ability to interpret the Zoning Ordinance. When it comes to a personnel matter or Notice of Violation, it has to be taken up with the court.

Robert Shute asked for a brief moment.

John Langey said it's not going to matter.

Robert Shute would like to submit a letter to the Board that he submitted to the Town Board. It should be a concern of the misbehavior of an individual.

John Langey said that is something Mr. Shute can bring up in a court of law. If Mr. Shute has evidence of this, he can show it at that time.

Robert Shute said in the past he hasn't even been able to have his own witnesses presented to the court. His own witnesses haven't been allowed. He would like this Board to know what's going on in this community.

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

The Zoning Board of Appeals Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Mary Jo Kelly
Secretary