

Minutes of the Zoning Board of Appeals Meeting of the Town of LaFayette held November 8, 2005 in the Meeting Room of the LaFayette Commons Office Building at 2577 Route 11 in the Town of LaFayette at 7:30 p.m.

PRESENT: Stephen Beggs, Chairman  
Robert Drumm, Member  
Albert Miller, Member  
James Butkus, Alt. Member

ABSENT: Daniel Kuhns, Member  
Jerry Doolittle, Member

RECORDING SECRETARY: Mary Jo Kelly

OTHERS PRESENT: John Langey, ZBA Attorney  
Roger Praetorius, Applicant  
Jerry & Lorraine Brown, 3340 LaFayette Rd.  
Alissa Archie, Southern Hills Preservation Corp.  
Pati & Peter Zangari, 1950 Berry Rd.  
Karen Pavente, 1933 Berry Rd.  
Pat Reagan, Court Reporter

Chairman Beggs called the meeting to order at 7:33 p.m. and welcomed every one. Everyone introduced themselves.

Chairman Beggs asked if there were any corrections or additions to the October 11<sup>th</sup> Meeting Minutes. Member Butkus said on page 5 "nay" should read "any". There were no further corrections or additions.

**Member's Drumm moved and Butkus seconded the motion to accept the October 11, 2005, Zoning Board of Appeals Meeting Minutes as corrected. Motion passed unanimously.**

**CASE # 581 – Public Hearing continued for application of William May for a Specific Permit of his property located on the island in Jamesville Reservoir in an Agricultural/Residential District. (Tax Map No. 003.-03-39.0)**

Chairman Beggs advised Mr. May called and said he does not have a survey ready as the Board requested.

John Langey said Mr. May's attorney had indicated a week ago that it should be on the agenda as he was assured the survey would be done.

Member Drumm asked if there is a protocol on this as we have to advertise the public hearing each time.

John Langey said ideally the cost of advertising comes out of the application fee.

Chairman Beggs recommended if paperwork requested by this Board is not received in the Town Office 2 weeks prior to the public hearing next month, it will not be advertised. This Board will not continue the case until such time as we receive the proper

documentation in a timely manner because the Town is going through a lot of expense for someone who is not acting in good faith. He would like this made part of the record.

The Board was in agreement with this recommendation.

Member Drumm asked how many times they can do this before the Board discontinues the application and makes the applicant resubmit it.

John Langey said the Board can do that. You can take it off the agenda until the applicant is ready to go forward.

Chairman Beggs thinks at this point in time it would be acceptable to leave the application open. We have not received response to the Board's request at this time. If the applicant doesn't have the information to the Town Clerk at least 2 weeks before the next meeting, we will not advertise it.

**CASE # 584 – Sketch Plan Conference continued for application of Roger and Jane Praetorius of 4127 Route 91 approximately 1 ½ miles south of Jamesville for a side yard variance of their property which is located in an Agricultural/Residential District. (Tax Map No. 004.-01-13.1).**

Roger Praetorius submitted a map showing his property dated May 25, 2005 and prepared by R. J. Lighton. The map showed where the well and utility pole are located on the property. He said the deed to the property shows there's about 5 lots. The lots are combined on this map. The garage is on Lot # 3. He would have to get a surveyor to change lot lines. He bought this whole hodgepodge of lots.

Chairman Beggs asked if all the Lots 14-19 are separate tax map numbers.

John Langey asked if Roger gets more than one tax bill.

Roger Praetorius said no.

Chairman Beggs said he visited the property. There is a ravine to the south of the property.

Roger Praetorius said because of the utility pole and the well, the proposed garage cannot be located anywhere else.

Chairman Beggs said a solution would be to resubdivide to combine all the lots.

Roger Praetorius is asking not to do this because of the cost of a surveyor, etc.

John Langey said the cleanest way to do it is to erase some of the lot lines. The biggest problem the applicant will have is if he ever wants to sell it or the CEO wanted to do a citation. Technically the applicant has buildings on other lots. The other option is to let the applicant request a variance for the garage and he can go forward with a resubdivision at a later date so he can move along with this project as it won't cross any of the property lines. Someone would have to follow-up on this. Ultimately you would like to see this get cleaned up. The house is 35 years old. The person sitting here today didn't create the problem of buildings being on various lots.

Member Butkus asked if this is a side-yard variance.

John Langey said the Board established it was a side-yard at the last meeting.

Member Butkus said the applicant would request a 15' side-yard variance.

Chairman Beggs asked the Board if they had any further questions or comments.

Member Drumm believes the variance should be taken down to 9' in case of eave troughs, etc.

This will be scheduled for a public hearing at the next meeting.

Chairman Beggs said for the record, these lots will need to be straightened out.

**Appeal by Peter & Pat Zangari regarding Code Enforcement Officer's decision regarding property located at 6783 Morezak Road.**

Pati Zangari said her husband Peter and Karen Pavente are here with her tonight. She has not met Mr. Lamson yet to discuss their concerns. She is rather disappointed that they haven't met him.

Chairman Beggs said he has read the documents submitted. He believes this has to go to a public hearing.

John Langey said this is an appeal of an interpretation which this Board has jurisdiction over. This should be a sketch plan tonight and then scheduled for a public hearing. He presumes they are taking issue with Ralph Lamson's decision that no business is being operated from the property. If at the next meeting the Board supported Ralph Lamson's decision and after that meeting more traffic/activity occurs, there are signs, etc., the residents would have to call Ralph Lamson to request he visit the site to see if there is a business being operated there at that time. The zoning law applies each and every day. If there is a determination today that there isn't a business, it doesn't mean in 6 months there isn't one.

Pati Zangari said it's important to them that Ralph Lamson does do a thorough investigation. They live there because they enjoy LaFayette and the peace and quiet. They now have noise and disruption with halogen lights shining in their backyard all night. When Mr. Carter applied for his subdivision, he stated he would not operate the business from his residence and would only occasionally bring a vehicle home. Since he moved in they have had the vehicles going up and down the road on a daily basis. Many days the banging and clanging goes on from dawn to dusk. Every evening they have a bright halogen light that shines down into their backyard. The noise goes on weekdays and weekends. They have been advised by resident's who lived near the Carter's previous location on Swift Rd. that these same complaints were made while the Carter's lived there. She and her neighbors submitted their concerns to the Town Board and the Town Board advised them they should contact Ralph Lamson. Ralph Lamson didn't state dates or times he visited the property. Their complaints initiated because of these things going on at the Carter property.

Karen Pavente said she is new to the area. She doesn't know just how far she is from the Carter property but she can also hear the noise in her backyard. She also moved here for the peace and tranquility. The beeping and noise quite often sound like it's in her backyard. This is in addition to dogs barking all day. She has gone to the property as she was concerned there was something wrong with the dogs.

Chairman Beggs said this Board will request the type of information needed for this to go to a public hearing. Basically this Board would need documentation to overturn the C.E.O.'s decision.

Pati Zangari said what about a thorough investigation.

John Langey said the Board has a review jurisdiction. There's a Dog Control Officer regarding the barking dogs annoyance. For these folks to get ready to prepare for their case next month at the public hearing, they should provide photo's, a survey of the subdivision and draw where the location of the business versus the home is. One question the Board might ask is if this resident is working on his own property or are the sounds of his equipment related to this business? Most of us have the right to landscape the heck out of our own yard. To the point where it becomes annoying if the resident is working on his own property, it becomes something more of a nuisance that the police department can investigate.

Chairman Beggs said typically a business is where he would be doing something for his customers on his property.

Pati Zangari said Mr. Carter mentioned he would not keep the equipment on his property and that it would only be there on occasion. It's there almost all the time. He uses the equipment to go back and forth to work.

John Langey said you might look for storage material for a business on the property.

Pati Zangari said what bothers them is the noise and activity of keeping his equipment at his house. The grading he has done on his property has caused them problems. The unwillingness of Mr. Lamson to come and discuss his determination with the residents does not fulfill his requirement to the taxpayer. Mr. Carter moved into a beautiful area and now he had ruined it.

Member Butkus said they might want to check into mining permits as he disturbed such a large area.

Member Drumm said they might want to see what he gives as his business location.

Pati Zangari said they respectfully request the Board to review their concerns. What's going to happen with their lives now that this is allowed?

Peter Zangari said they have water problems now as Mr. Carter has changed the whole terrain.

Member Miller would like to see documentation of the changes in the land.

John Langey said unless the change of the land directly relates to the business, it would not be submitted to this Board.

Chairman Beggs said they could request information of activities going on that are in violation of the town ordinance. This Board doesn't have any control over the C.E.O.

John Langey said correct. This Board can only overturn his decision.

Chairman Beggs said as far as demanding Ralph Lamson to inspect or visit these residents, he doesn't believe it's in this Board's power.

John Langey said that is correct.

Pati Zangari asked what his protocol is. He doesn't supply dates or contact the residents.

John Langey said there is nothing written down. He is not prevented from speaking to them. Perhaps by next month he would go out and look at the site again.

Pati Zangari said they noticed last weekend that it was quieter at the site. Mr. Carter was back at it during the week. It's his own activities.

John Langey said that is not illegal.

Pati Zangari said Saturday morning he went off in one direction with a trailer and Sunday morning he went off in another direction with it.

John Langey said that is why you make your presentation at the public hearing. The Carter's may present their evidence and Ralph Lamson might be present to state his determination and why.

Pati Zangari asked if Mr. Carter had any credibility when at the Planning Board meeting he said he would only bring his equipment home to change the oil or wash it.

Peter Zangari said there is some concern with the changing of oil and washing the equipment which goes into the soil.

John Langey said he would package all this information and do a nice presentation at the public hearing.

Pati Zangari said they are not seeking to make life impossible for other people. Mr. Carter continues moving the land at his property because he has the equipment.

Peter Zangari said they just want him to be a good neighbor and live there and not cause a commotion and disturb the neighborhood.

Member Drumm asked if Mr. Carter is removing soil from the property and taking it somewhere else.

Pati Zangari said he's done quite a bit of grubbing, etc.

Member Butkus asked if there isn't something that makes it a mining operation.

John Langey said if they are stripping topsoil and doing it without a DEC Permit, there are regulations regarding erosion control which state you cannot disturb over one acre of land. The DEC was contacted about this site.

Pati Zangari said the DEC was contacted. More than one acre was disturbed. By the time they learned about the DEC, they called them in September. The DEC came out and said the residence was clearly in violation when they cleared the land but new vegetation was coming in so they gave Mr. Carter a notice not to disturb the land any further.

Member Butkus asked if Mr. Carter has continued.

Pati Zangari said not in that area. They now have to seek litigation and seek financial reimbursement. They have to jump through all kinds of hoops and this Board is still telling them that Mr. Carter can continue to misuse his neighbors. She thinks if we had a C.E.O. that would have looked into this in the very beginning, there would be a better solution to this.

Chairman Beggs believes that matters regarding Mr. Lamson's activities have to be directed to the Town Supervisor or Town Board.

John Langey said yes.

Pati Zangari said they have been there and they were advised to come to this Board.

Chairman Beggs said this Board has no jurisdiction over the C.E.O. He has been on this Board for 25 years and he has dealt with several C.E.O.'s. C.E.O. activity has to be directed to the Town Board or Town Supervisor because this Board has no jurisdiction over the C.E.O. This Board can hear the appeal but this Board has no control over the activities. This Board can consider a determination the C.E.O. has made and make a determination whether it's correct or not. To overturn a decision of the C.E.O. takes

good documentation and good facts. Things this Board can deal with. This Board must deal with hard facts such as photos, videotapes, dates, etc.

Pati Zangari said they won't get this information now as Mr. Carter has been put on notice.

John Langey said perhaps he will change his ways now that he has been put on notice. Maybe you will hear less of the beeping noises, no soil being trucked out of there, etc. Maybe Ralph's investigation and your pursuit can give them the potential quiet they are seeking. In the end, you want him to comply.

Pati Zangari said so this is an ongoing thing for the rest of their lives. As far as they know, Ralph Lamson didn't do a complete investigation with dates, etc.

Chairman Beggs said those comments need to go directly to the Supervisor or Town Board.

John Langey said they might want to come during the C.E.O.'s office hours on Wednesday nights to talk with him.

Pati Zangari asked what if the determination was that a business was being operated from there?

John Langey said an appearance ticket would be issued and they would be ordered to cease and desist the operation.

Pati Zangari said the activities are not going on now but they have been going on for the past 1 ½ years.

John Langey said there's a cost and expense involved in filing your appeal. If you feel you are not going to be able to supply enough evidence to overturn Ralph Lamson's decision, you might want to think about this.

Peter Zangari asked how long they would have to appeal.

John Langey said if the activities should begin again, they would call Ralph Lamson who would go out and investigate. If his determination is one they are happy with, they are good. If it's a determination they are unhappy with, they would request this Board to review it.

Peter Zangari said if everything ceases right now, they can wait for the business to start up again.

Chairman Beggs said if part of the complaint is the activities of the C.E.O., that is when they will have to go to the Town Board or Town Supervisor. If it goes back to where the activities are going on, they can come back before this Board.

Peter Zangari said and then they are not wasting everyone's time.

Pati Zangari said in Ralph Lamson's note, he doesn't give them an analysis. They are requesting under the Freedom of Information Law the names of the people in the Town of LaFayette that Ralph Lamson has contacted regarding zoning violations from January 1, 2002 through today. If Ralph Lamson would like to rescind his decision, they would accept that. If he would like to actually sit down and talk to them and the neighbors, they would truly appreciate that.

John Langey said perhaps the applicants would rather wait and see if this resolves itself before going forward.

Chairman Beggs said maybe they would like to meet with Greg Scammell and get some answers there and make some determinations, see what activities are going on and see if they can get a meeting set up with Ralph Lamson before going forward. He encourages this as opposed to this Board trying to rule on something that they don't have

adequate facts on. The activities taking place right now are fine. If we ask the applicants to supply some hard facts today, it would be difficult.

Member Butkus asked Pati Zangari if when she makes records of what she has, to put dates and actual times. It has more impact on people if you put specifics down.

Lorraine and Jerry Brown were present to discuss replacing a mobile home.

Lorraine Brown said they currently have a mobile home on LaFayette Road. Southern Hills Preservation Corp. is trying to help them replace their home.

Alissa Archie of Southern Hills understands there might be a required variance to replace an existing mobile home with another unit.

John Langey asked if they have spoken to Ralph Lamson about this.

Alissa Archie said yes. They need to come to this Board as there is not an existing variance for the property. Ralph Lamson recommended they come to this Board for a variance. They are looking to purchase an existing unit for between \$20,000 and \$30,000 depending on the grant portion they can up with for the total project. Southern Hills has looked at the existing trailer. It's beyond repair. Whatever they can put in here would improve their living space and the surrounding areas. She was concerned whether this would be allowed or not.

John Langey said the Zoning Ordinance does not allow mobile homes on lot. You would need a Use Variance. A Use Variance is extremely difficult for this Board to grant for the relief they will be asking for. The legal standard is that you have to show the property cannot be used for anything else. They should look at the criteria for a Use Variance to see if they can make it work. He doesn't know if this Board has ever granted one. This Board is not allowed to grant a Use Variance if the hardship is self-created. If it is self-created, the Board is required by state law to say no.

Lorraine Brown said it was put there in 1975 by Charles Knickerbocker.

Mary Jo will research the archives to see if there is any past documentation on it.

Lorraine Brown said they cannot afford anything else.

Chairman Beggs said some cases have been brought before this Board in the past regarding mobile homes. The Board has recommended they go to a modular home. It could be a scaled down modular home which could be built onto later. Modular homes meet the building codes. Mobile homes are allowed in trailer parks or can be used for the housing of a hired hand on a farm.

Lorraine Brown said Thorpe's have a trailer on their property and it's not for a hired hand. She knows for a fact the person residing in it doesn't work for them.

Chairman Beggs said he has put a request in to the Town Board for a mobile home inventory and the status of them in the Town of LaFayette.

Alissa Archie said basically the only way they can improve their situation is to replace the trailer with a modular home.

Lorraine Brown asked if the Board wouldn't rather see the community look better.

Member Drumm said this Board has given variances in the past that a trailer can be put on a property for the life of the resident and then it must be removed.

John Langey said the town can't work around New York State Law.

Jerry Brown asked who they could talk to at the state level.

John Langey said legislature made that law. No one is going to tell them not to make their application.

Alissa Archie asked where they could find some documentation on this law.

John Langey said it's Town Law 277 or 274. It's also in the Town Zoning Ordinance.

**Member Miller moved and Chairman Beggs seconded the motion to adjourn. Motion passed unanimously.**

The Zoning Board of Appeals Meeting adjourned at 9:11 p.m.

Respectfully submitted,

Mary Jo Kelly  
Secretary

Dated: November 2, 2005  
Mary Jo Kelly, Secretary

Adopted 12/13/05