

Minutes of the January 24, 2006 Special Zoning Board of Appeals Meeting Minutes held 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  
Albert Miller, Member  
Daniel Kuhns, Member  
Jerry Doolittle, Member  
James Butkus, Alt. Member

Absent: Robert Drumm, Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, ZBA Attorney  
Gregory Scammell, Town Supervisor  
Ralph Lamson, CEO  
Steve Middleton, Applicant  
William May, Applicant  
Robert Latocha, 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 January 10, 2006 Meeting Minutes. There were none.

**Member's Miller moved and Doolittle seconded the motion to accept the January 10, 2006 Zoning Board of Appeals Meeting Minutes as submitted. Motion passed unanimously.**

**CASE # 586 – Public Hearing continued for application of Kathy Tily for an Area Variance for her property located at 4153 Apulia Road Approximately ½ mile south of the Coye Rd. and Apulia Rd. Intersection on the west side of Apulia Road in an Agricultural/Residential District. (Tax Map No. 003.-01-09.1).**

Steve Middleton was present to represent the applicant.

Chairman Beggs said County Planning replied January 10, 2006 that they determined that the said referral will have no significant adverse inter-community or county-wide implications and may consequently be acted on solely by the referring board. This property was originally 3 lots. Steve Middleton lives on one of the lots, there is a lot in the middle and Mrs. Tily lives on the third lot. Steve Middleton has a drainage problem and approached Mrs. Tily and offered to buy a portion of the center lot so the water problem would be on property he could do something about. This was referred to the Planning Board for a subdivision approval. Since it was going to be making a lot smaller than standards according to our current zoning laws, it had to be referred to this Board. The Hearing is really for Mrs. Tily. He asked if there were any questions.

Member Kuhns asked if the middle lot will go away and just be put into the two Steve Middleton's and Kathy Tily's deeds.

Steve Middleton said yes. It is a vacant lot with no septic or anything on it. It has a spring on it and it creates a little problem.

Chairman Beggs said Steve Middleton had indicated if he purchases the land, he can fix the drainage so it goes away from his house.

Steve Middleton said yes.

Chairman Beggs asked if he changes the contour of the land, will the water run towards Mrs. Tily's?

Steve Middleton said no. There's a ditch in the front and he is going to direct it towards the ditch.

Chairman Beggs said he will do a ditch to carry the water from the spring to the road ditch. Just to remind the Board, there has been recent legislation that if you change the contour of your land, you cannot create a drainage problem for a neighboring property. People need to be aware of the fact that if they disturb land, they cannot create a drainage problem for someone else. He asked if there were any other questions.

Chairman Beggs said the public hearing was continued as this Board just had to hear back from County Planning. He asked if there was anyone present to speak in favor of this application. No one came forward. He asked if there was anyone present to speak in opposition to this application. No one came forward.

Chairman Beggs closed the public hearing. He believes this looks like a good deal.

**Member's Doolittle moved and Miller seconded the motion to make this Board Lead Agency, this is an unlisted action and a negative declaration in the SEQR process and to approve an area variance for Kathy Tily for a substandard lot as proposed on the survey dated November 14, 2005 and prepared by R. J. Lighton.**

Member Kuhns asked if there will be a stipulation on the deed.

John Langey said the piece being acquired by Steve Middleton should show it's being added to his property and the remainder of the lot should go to Mrs. Tily.

Steve Middleton said he will do this.

Member Butkus asked if it would be done within a year.

Steve Middleton said hopefully within a couple of weeks.

It was noted the Planning Board's approval was subject to this Board's granting of the area variance.

John Langey advised the applicant to give his attorney the map so he can give it to the surveyor so he can show the lot combined between the two properties.

**Voting on the above motion was as follows:**

<b>Chairman Beggs</b>	<b>Voted</b>	<b>Yes</b>
<b>Member Miller</b>	<b>Voted</b>	<b>Yes</b>
<b>Member Kuhns</b>	<b>Voted</b>	<b>Yes</b>
<b>Member Doolittle</b>	<b>Voted</b>	<b>Yes</b>
<b>Alt. Member Butkus</b>	<b>Voted</b>	<b>Yes</b>

**Motion passed unanimously.**

**CASE # 585 – Sketch Plan Conference continued for Robert Latocha for a side-yard variance of property located at 6475 Oschner road approximately 500' from the Oschner Road and Apulia Road intersection in a Residential/Planned Cluster District. (Tax Map # 002.-03-04.0).**

Robert Latocha was present.

Chairman Beggs asked him if he had a survey of the property.

Robert Latocha showed him a copy of a previous survey.

Chairman Beggs asked if there is a house on it now.

Robert Latocha said the property is vacant.

Member Butkus asked if it slopes down towards the railroad tracks a little bit.

Robert Latocha said no. It's pretty level. He showed the Board some pictures he had taken of the property in case the Board isn't familiar with the area. He wanted the Board to see how close the houses are together.

Chairman Beggs asked if the survey map he is having done now will show the driveway to the property.

Robert Latocha said yes.

Chairman Beggs said he got a letter from the Town Highway Superintendent, Leon Cook, stating there is an existing driveway to the lot. He noted the applicant will need a side-yard variance.

Robert Latocha said the building will be 50' long. He will be 51' from the road.

Chairman Beggs said the Zoning Ordinance says he has to be 50' from the front property line and 75' from the highway center line. When the applicant comes for his public hearing, he needs to have reviewed the setbacks to determine exactly what he will need. He noted the applicant was asked to put the building as close to the railroad tracks as possible.

Robert Latocha said he can put the building so it's 51' from the front property line. He asked if that is O.K.

Chairman Beggs said yes.

Robert Latocha said the reason he took the pictures is just to show the Board what the site is like and the closeness of the houses.

Chairman Beggs said the applicant is trying to meet the Board's requests. He asked if the applicant plans on having running water in the building.

Robert Latocha said yes.

Member Doolittle asked if he would be using an existing well.

Robert Latocha said they have public water there. The water would just be used to wash the cars. There would be a sink so he could wash his hands. Drainage for the water wouldn't be a problem.

Member Butkus asked if the neighbors would complain.

Robert Latocha said he already has letters from the neighbors saying it's O.K. The only ones who would complain would be the one's who have junk cars on their property.

Chairman Beggs asked if there was any intention for living quarters.

Robert Latocha said no.

Chairman Beggs said just a storage room.

Robert Latocha confirmed this.

Chairman Beggs asked if the Board had any questions.

Member Doolittle asked if there would be a toilet in the building.

Robert Latocha said no.

Member Doolittle confirmed when he washes the cars, the water will go into the drywell.

Robert Latocha said yes.

Member Doolittle confirmed he doesn't need a leach field.

Robert Latocha said no he doesn't.

Chairman Beggs said it looks like the applicant is ready for a public hearing once the survey is completed. He advised this Board had a Special Meeting tonight to accommodate the applicants. He said a public hearing could be scheduled in March unless the applicant needed it to be held in February.

Robert Latocha would appreciate it being done in February.

Chairman Beggs said the only case to be before the Board in February is this one. Since the Board held a Special Meeting tonight, they might postpone the February meeting until March, however, if the applicant needs the public hearing in February, the Board will schedule one.

Robert Latocha said he would like to start building as soon as the weather breaks.

Chairman Beggs said he would see Ralph Lamson for a Building Permit when he has gotten approval from this Board.

Ralph Lamson said it will take about 15 minutes with him to get his building permit once he gets this Board's approval. He has hours Wednesday evenings from 7-8:30 or by appointment.

Robert Latocha said he just needs an updated survey showing the building on the lot and the driveway.

Member Miller recommended putting the setback distances on the map too.

Chairman Beggs agreed for the applicant to show the setbacks from the side, front and back on the survey. If this information is received in time, a public hearing will be scheduled for February.

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

William May was present.

Chairman Beggs said the public hearing was closed but the Board hasn't acted on this application yet. For clarification, this case has been before this Board since last summer. He has studied all the notes and he will review the facts that he has on the case. Once he reviews them, he will ask the Board for comments and then they can have a discussion and make a decision on this tonight.

- 1) The application was made on/about June 22, 2005 for a Specific Permit for a camp use in the Town of LaFayette. A camp is permitted in an Agricultural/Residential District subject to getting Specific Permit approval from the Zoning Board of Appeals.
- 2) The property is about ½ of the island situated in the Jamesville Reservoir.
- 3) The property consists of 9,800 square feet or .224 acres. It is a substandard lot in size.
- 4) The property was previously owned by the State of New York.
- 5) William May submitted evidence he purchased the property from the State of New York in August 1992.
- 6) Prior to purchasing the property, the applicant used the property for a camping use which was characterized by the use of a small cabin structure as the primary shelter on the site.
- 7) In 1983 the applicant demolished the cabin shelter and used a tent style camp until approximately 2002.
- 8) In/about February of 2003 the applicant transported a 38' long travel trailer onto the site. No approvals were obtained by the applicant for use of the travel trailer on the site or for the use of the property as a camp use.
- 9) The applicant has proposed a use permit under our Zoning Ordinance which allows upon issuance of a Specific Permit the use of camp on the site.
- 10) In support of his application, the applicant provided an updated site plan where he depicted various improvements on the property including a swingset, planters, fencing, the trailer, etc.
- 11) The applicant has proposed various spots for the trailer at previous meetings.
- 12) The Zoning Ordinance states camps are allowed upon obtaining a Specific Permit under Article of our Zoning Ordinance. The standards for a Specific Permit approval are set forth under Section B of the Ordinance. "The Specific Permit structures uses designated in this Ordinance shall conform to all the regulations of the district in which they are located and to any particular regulations which apply to them under other provisions of this Ordinance. The Board of Appeals may impose as conditions to its Specific Permit approval such further regulations

and safeguards as would permit the Board to find that the proposed structure and use is:

- a) Appropriate for the particular lot and location;
- b) Not unreasonably detrimental to neighboring properties, areas and districts;
- c) Consistent with an orderly and appropriate development of neighboring properties, areas, and districts;
- d) Where adjoined by existing or permitted uses, a suitable transition between neighboring uses and or districts;
- e) Oriented in the location and upon the site as required in Section C of Article III; and
- f) An appropriate evolution of the comprehensive plan for the Town of LaFayette...”

These are all part of the LaFayette Zoning Ordinance for Specific Permit approval in an Agricultural/Residential District.

13. Our CEO has provided an opinion that the travel trailer is not in compliance with the Town of LaFayette Code. Therefore, it's not a permitted use in the Town of LaFayette. He has identified it as a motor vehicle which requires inspections, etc.

Chairman Beggs believes this is a trailer and the only place trailers or mobile homes are allowed in the Town of LaFayette are on land zoned for them, i.e. mobile home parks. It does not meet the Zoning Ordinance in that respect.

14. The public hearing was held August 9, 2005 and extended to October 11, 2005. Various photographs of the property were submitted.

Chairman Beggs noted in his introduction he advised this property is .224 acres or 9,800 square feet so it's a substandard lot which is why the applicant has asked for it to be used as a camp. When the Board acts upon this tonight, if it were approved as a campsite location, then the applicant would have to come back before this Board for any proposed structures to be located on the property.

John Langey said if the Board approves this, any changes to the site would require the applicant to come back before this Board. If there is going to be any change to the site, the applicant would have to come back before this Board for an amendment. All the applicant has asked the Board for tonight is to approve the proposal before them tonight.

Chairman Beggs said he realizes this is an unusual case because this Board doesn't have that many cases of this nature in the Town. Basically what the applicant is seeking is for the site to be used as a camp location.

Member Butkus asked what that means. What does a camp location mean? This could mean a hundred different things to a hundred different people.

John Langey said Mr. May is requesting to continue to use the property as he has used it for years except in 2003 he rolled the travel trailer out there. Complaints were made. The CEO investigated and found no Specific Permit approval ever being granted by this board for the applicant to camp out there. This Board has now been presented a survey of the many different characteristics of what is going on at the property. The travel trailer has been squarely put in the eye of the Zoning Board of Appeals. It was a comment of the public. The characteristic of the travel trailer has come squarely before the Board. The CEO has given his definition. He said under the Vehicle and Traffic Law, a trailer is defined as a vehicle. The Board needs to discuss now under the criteria mentioned, can the Board grant this camp use and if it can, how do they grant it in a way that the criteria has been met. If the Board grants it, it must meet all the criteria in the Ordinance. He knows many of the Board Members went out and looked at the property

and the surrounding properties. As you debate and articulate the reasons, you must meet the criteria.

Member Butkus said the application before the Board is just as is. The Board can put conditions on it.

John Langey said right You can approve, approve it with conditions or you can disapprove it He knows the Board has photos, testimony, etc. to base their decision on.

Chairman Beggs said that there seems to be a problem brought up in the Zoning Ordinance with regard to the trailer on the site. This Board could approve that site as a campsite location and request the removal of the trailer. Right now the application before them is can that site be used as a campsite. If the board has a problem with the trailer, a condition could be that the trailer be removed. The site could be approved as a campsite with the condition that the trailer be removed. This Board is burdened with that responsibility. As counsel advised, if the applicant should establish a structure on the site, they would have to come back before this Board for an amendment. The question before the Board is can the .224 acre site be used as a camp. This Board can put conditions on it that will clarify the issue. If the board has concerns, they can be put in the resolution. If the Board doesn't think the site can be used as a camp, the application can be denied. He opened this up for discussion by the Board.

Member Doolittle said going back to the original application, the applicant said the camp is for seasonal use. He understands the applicant's right to enjoy the property including the use of it as a camp. He believes there is space there to erect a building that would meet the setbacks. Even though the lot has grandfathered in as a substandard lot, in the fact that there's no longer a building on it requires the applicant to start over and any new structure must comply with the standards. Under some of the criteria is that it be consistent with the neighboring properties. He doesn't believe it is consistent with neighboring properties to use the trailer. Trailers are not a permitted item in that area whether they have wheels on them or not. For that reason he would think that he would be in favor of granting a Specific Permit for his use as a camp but with the stipulation that the trailer does not meet the standards and would have to be removed.

John Langey asked Member Doolittle if he went out and looked at the site.

Member Doolittle said yes.

John Langey asked if he saw any other trailers in the area.

Member Doolittle said no.

John Langey asked the other Members if they had been out to the site.

They advised they had.

Member Kuhns said as far as use of this property for a camp, it seems like an ideal use for a camp. He is sure in the summer there are boats, canoes, planters and swingsets in peoples yards. He fully agrees with Member Doolittle about the trailer. It does not comply with being consistent with the neighboring properties. When he went down through the Specific Permit criteria, he can find more than one no to the criteria in the Zoning Ordinance based on the trailer.

Member Miller agrees. He agrees it's a reasonable campsite but the trailer is inconsistent with the Zoning as trailers are only allowed in trailer parks. A trailer is a trailer. The trailer is not appropriate for that neighborhood.

Alt. Member Butkus agreed with Member Doolittle.

Chairman Beggs said to recap the Board Members comments. Everyone seems to share the opinion that the .224 acres would make a good application for a campsite as far as use of the property. However, according to the LaFayette Zoning Ordinance it's not allowed therefore a trailer does not meet the requirements. The surrounding neighborhood is not populated with that type of vehicle. In review the Ordinance and the conditions for a Specific Permit approval, it doesn't come up to the standards. The discussion was made earlier on and at various hearings about the DEC approval. It will now be this Board's responsibility if Mr. May elects to do something with the property in the future, if this Board does approve this application, to be sure

he meets normal setbacks and have to have DEC approval for that structure, whatever it is. Any future plans would have to come before this Board and meet the zoning requirements.

Member Kuhns certainly would like to work towards a structure on the property. He would much rather see a structure than the trailer being left on the property. That is part of this Board's job, to be sure the residents comply with the laws and comply with the neighborhood.

**Alt. Member Butkus moved to make this Board Lead Agency, this is an unlisted action and a negative declaration in the SEQR process and to grant Specific Permit for the site to be used as a camp with the condition that the trailer is not a permitted use and will not be allowed on the property for the reasons discussed by the Board Members.**

John Langey confirmed the Board found this to be a negative declaration as they knew they were putting the condition in that the trailer be removed so aesthetics wouldn't be an issue.

Chairman Beggs said that is correct.

John Langey said it's important to note that this Board is approving a Specific Permit for a camp use subject to moving the trailer. Currently it's the opinion of the Town that he is in violation and until he removes the trailer, he will continue to be in violation .

Member Kuhns asked if there is a time-frame on the removal of the trailer.

John Langey said there is a Justice Court proceeding going on right now. The applicant can talk to his attorney about this. He can't use the site for a camp until he complies with this resolution. He cannot use the site as a camp until the trailer is removed.

Chairman Beggs said if the applicant were to erect a building, he would have to come back before this Board.

John Langey said correct. If Ralph Lamson is approached by Mr. May who wants to alter the approved use, Ralph will refer him to this Board. If he comes in for a shed, cabin or whatever, he must come back before this Board

**Voting on the above motion was as follows:**

<b>Chairman Beggs</b>	<b>Voted</b>	<b>Yes</b>
<b>Member Miller</b>	<b>Voted</b>	<b>Yes</b>
<b>Member Kuhns</b>	<b>Voted</b>	<b>Yes</b>
<b>Member Doolittle</b>	<b>Voted</b>	<b>Yes</b>
<b>Alt. Member Butkus</b>	<b>Voted</b>	<b>Yes</b>

**Motion passed unanimously.**

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

The Special Zoning Board of Appeals Meeting adjourned at 8:37 p.m.

Respectfully submitted,

Mary Jo Kelly, Secretary