

Minutes of the September 5, 2006 Zoning Board of Appeals Meeting 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
Robert Drumm, Member
Daniel Kuhns, Member
Jerry Doolittle, Member

Absent: Albert Miller, Member

Recording Secretary: Mary Jo Kelly

Others Present: John Langey, ZBA Attorney
Ralph Lamson, CEO
David Muraco, Applicant
Ron Bush
Ryan Smith, Applicant
Kurt Watson, Applicant
Adrian Shute, Councilman

Chairman Beggs called the meeting to order at 7:42 p.m. Everyone introduced themselves.

Chairman Beggs asked if there were any corrections or additions to the August 8, 2006 Minutes. There were none.

Member's Doolittle moved and Kuhns seconded the motion to accept the August 8, 2006 Zoning Board of Appeals Meeting Minutes as submitted by the Secretary. Motion passed unanimously.

CASE # 590 - Public Hearing continued for Specific Permit application by New Plan East, LLC c/o David Muraco for his property located at 2512 Route 11 approximately 500' from the Route 11 and Route 20 intersection in a Hamlet District for a Dollar General. (Tax Map No. 019.-02-18.1).

Chairman Beggs said last month the Board had a problem with County Plannings comment regarding the two driveways. The Board needed to get the facts in front of them to know what existed. The Board asked the lawyer to get involved to speed things along.

Dave Muraco said since the last meeting the D.O.T. responded in writing. The landscaping has been changed accordingly.

Chairman Beggs said the N.Y.S. D.O.T. mandated 24' wide entrances but approved having the two driveways.

Dave Muraco said yes. His drawings reflect this.

Chairman Beggs said this clarifies the concern that County Planning had. The applicant provided a letter from Mark Frechette of the N.Y.S. D.O.T. dated August 31,

2006 approving the two 24' wide driveways. The Board also requested a landscaping plan which the applicant has provided. The plan is dated August 28, 2006 and prepared by Napierala Consulting Professional Engineer P.C.

Chairman Beggs asked when the applicant would plan to have the landscaping done.

Dave Muraco said he would do it immediately.

Member Doolittle asked about lighting. There are two existing light poles. Are there any plans for other lighting?

Dave Muraco said just wallpacks to replace the existing lights.

Member Drumm asked if the Dollar General requires the building to be a certain color.

Dave Muraco said the proposed painting of the building might be the color there now or a beige/gray. He is going to go with more of a maroon/deep red color for the cedar shingles.

Member Drumm asked if Dollar General dictates the color he paints the building.

Dave Muraco said no. The Dollar General has a yellow sign which might stand out.

Ralph Lamson said they have given him an application already for signs and they are all set to go.

Member Kuhns asked the Board if they were concerned about a lighting plan.

Chairman Beggs said this Board needs to be concerned with lighting. Lighting should not contaminate the environment but there should be adequate on-site lighting for security, etc.

Dave Muraco said they are not adding any more lighting to the site. There will not be any lighting at the back of the building which is the area closest to any residence.

Member Drumm asked what the hours of operation will be.

Dave Muraco said he isn't sure but the other stores have been open 9:00 a.m. to 9:00 p.m.

Member Drumm asked if this is 7 days a week.

Dave Muraco thinks Sunday they might be open 9:00 a.m. to 6:00 p.m.

Chairman Beggs said those hours would be appropriate for this facility.

Member Drumm noted there's a gas station next door that is open 24 hours a day.

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

Ron Bush said he is in support of this.

Chairman Beggs asked if there was anyone present who wished to oppose this application. No one came forward.

Chairman Beggs said it appears to him that the applicant has provided all the documentation requested by the Board at the last meeting. He asked if there were any further comments from the Board or the public before closing the public hearing. There were none.

Chairman Beggs closed the public hearing.

Member Doolittle thinks this is a reasonable use for the vacant building and it will do more good for the town than harm.

John Langey noted the following findings of the Board:

1. This is an existing building which has a historic use for retail sales.
2. It is appropriate for the lot and location.

- 3. This will not have a detrimental impact on the neighborhood.
- 4. The project is a light commercial use and is a suitable transition to other similar uses in the area.

Member Doolittle moved and Member Kuhns seconded the motion to make the Board Lead Agency, this is an unlisted action and a Negative Declaration in the SEQOR process and to grant a Specific Permit to New Plans East, LLC for a retail sales business at 2512 Route 11 with the following conditions:

- 1) **Lighting shall not spill onto the street or neighboring properties.**
- 2) **Usage shall be in strict accordance with the plans prepared by Napierala Consulting Professional Engineer PC dated August 28, 2006 and the application.**
- 3) **Landscaping as shown on the plan shall be maintained and repaired as deemed necessary by the Code Enforcement Officer.**
- 4) **The driveways must be controlled with curbing and/or landscaping to meet the requirements of the New York State Department of Transportation.**
- 5) **The Applicant will apply new paint to the facade of the building as proposed.**

Chairman Beggs said County Planning recommended closing the southerly driveway but the Applicant has met with the N.Y.S. D.O.T. who has now approved the driveways. This Board will over-rule County Planning for the reason that the Applicant has received approval from the N.Y.S. D.O.T. for the driveways.

Member Drumm asked if the Applicant would have to come back to this Board if he changes the business.

John Langey said the application is for retail sales so as long as it's retail sales, he should be O.K.

Voting on the above motion was as follows:

Chairman Beggs	Voted	Yes
Member Drumm	Voted	Yes
Member Kuhns	Voted	Yes
Member Doolittle	Voted	Yes

Motion passed unanimously.

CASE # 592 - Sketch Plan Conference for Ryan Smith Properties for a front-yard variance for a sign at his property located at 2383 Route 11 approximately 1/2 mile south of the Route 11 and Route 20 intersection in a Hamlet District. (Tax Map No. 017.-03-15.0).

Ryan Smith said they are proposing to put a sign in the center of the grass island. They are asking for the sign to be perpendicular to Route 11.

Member Drumm asked if it would be a lit sign.

Ryan Smith said he might do lighting on the top of the sign which would shine down but he isn't sure yet. He showed the Board some pictures of similar signs like the one he is proposing to do. It would be a vinyl sign with vinyl letters that could be changed. He isn't opposed to an illuminated sign but hasn't gotten any prices yet.

Member Kuhns asked if the people in the building need the sign lit at night.

Ryan Smith said one of the main people in the building now is Southern Hills which was located in Tully and has moved here. He isn't sure if they will be having anything there evenings but they just want to be sure people can find their new location.

Chairman Beggs asked how far the sign would be back from the edge of the pavement.

Ryan Smith said about 20' to the center of the sign.

Chairman Beggs said one thought he has is safety. A car turning onto Route 11 should have good visibility of an oncoming vehicle.

Ryan Smith said he would be willing to push the sign back slightly.

Member Drumm asked if he would be willing to put it behind the line of the flag pole.

Ryan Smith said he would agree to put it towards the back of the island. He knows where they are proposing to put it won't be in the line of sight of vehicles turning onto Route 11.

Chairman Beggs said for the public hearing, the Applicant will want to have an exact measurement from the edge of the pavement to the edge of the sign.

Ralph Lamson said the other measurements the Applicant will need are from the center of the road to the sign and from the front property line to the sign as these are the variances he will have to have.

Member Drumm said it would be a good idea to have the square footage of the sign in the proposal.

John Langey noted in the application it states it will be 25' from the highway center line which the Applicant might want to amend. This will have to be referred to County Planning. He is sure they will want the D.O.T. to approve this.

Chairman Beggs said structures are supposed to be 75' from the highway center line and 50' from the front property line.

Ryan Smith would be in favor of keeping the actual sign within the 32 square feet stated in the Zoning Ordinance.

The Applicant will need to submit the following information before this can be referred to County Planning:

- 1) Specific measurements from the highway center line, front property line an edge of pavement to the sign.
- 2) Sign measurement being 32 square feet or less.
- 3) Survey showing the sign on it with measurements.
- 4) Specified lighting.
- 5) A letter from the New York State Dept. of Transportation stating they do not have a problem with the intrusiveness of the sign when entering and exiting the property.

Ryan Smith asked if when this is approved there are any additional permits needed for the sign.

Ralph Lamson said one will be needed for the construction of the sign.

Member Drumm asked how many new tenants he is planning on having.

Ryan Smith said 3-5 including himself.

Member Drumm asked if there would be a problem with the septic system.

Ryan Smith said he spoke to the health department about this. Since the original design was for the N.Y.S. Troopers Barracks, they advised he should be fine. He keeps an eye on it to be sure.

Member Doolittle asked about the footers for the sign.

Ralph Lamson said they would still have to be 48” down.

Kurt Watson showed the Board a site plan dated 12/16/2005 and prepared by Hulbert Engineering. He is proposing to move the brown building from its current location to a site on Route 11.

Member Doolittle asked what its use would be.

Kurt Watson said a nursery.

Chairman Beggs asked what the site is zoned as.

Kurt Watson said Agricultural/Residential.

Chairman Beggs asked if this would be a garden center.

Kurt Watson said he was given a specific for it in 1992. He believes this would be more agricultural than anything.

Ralph Lamson believes you are looking at a business being put in an Agricultural/Residential District.

Kurt Watson said there has never been any retail use of the brown building. It’s more agricultural than business.

Ralph Lamson said it’s where Greg Watson is running his landscaping business out of.

Kurt Watson said yes but he is also running his agricultural business out of it. He knows there is another nursery running in an Agricultural/Residential District that was granted Agricultural approval.

Member Kuhns asked if trees would be grown there.

Kurt Watson said yes and there would be equipment stored there.

Member Doolittle asked if there are wetlands on that property.

Kurt Watson said yes and showed the Board where they are located.

Member Doolittle asked when the wetlands were put on the map.

Kurt said they are designated wetlands and were determined less than a year ago.

Member Doolittle said the Applicant would need a driveway permit from the D.O.T.

Kurt Watson asked if Tim Maines got a permit for his heating and landscaping business.

Ralph Lamson said not that he knows of. If he is working by himself and running a heating business, he wouldn’t need one. This is no different than someone bringing their work truck home.

Member Kuhns asked how much he will be saving by moving the building rather than putting up a new one.

Kurt Watson said enough.

Member Kuhns said if this was specifically a building for equipment, it would be a different issue.

Member Drumm asked why he is moving the building.

Kurt Watson said to relocate the building to another site.

John Langey said Ralph Lamson has made an interpretation and sees it more in line with the landscaping business and because it's a business the Applicant would have to apply for a use variance. The Applicant must decide whether he wishes to appeal Ralph's interpretation or to appeal the decision that this is a business.

Chairman Beggs said he could also apply to the Town Board for a zone change to a Business District.

John Langey asked what the neighbors on either side of the property are zoned.

Kurt Watson said Residential.

Ralph Lamson asked if there's a couple of houses between this property and the apartments.

Kurt Watson said last time he applied for a specific permit.

It was noted the Zoning Ordinance has been amended since then.

Chairman Beggs said he knows it has been suggested in the past that the corridors along Route 11 and Route 20 be rezoned to Business for the fact that the main traffic corridor is where you want your business.

Ralph Lamson said across the road from the Applicants' property it is zoned Industrial. He would recommend going to the Town Board because if you look at that stretch of road, it's different spots of zoning all the way through. He thinks the Town Board should look at this and zone the stretch of the road all the same.

Chairman Beggs would recommend the Applicant go to the Town Board to ask about rezoning the property.

Member Drumm asked if someone could walk into his store and purchase something.

Kurt Watson said out of the Garden Center yes but no one has ever purchased anything out of the brown building.

John Langey said the Applicant can challenge the interpretation that the storage and landscaping equipment is not a commercial use, he can apply for a use variance or he can see whether the Town Board would be interested in changing the zoning in and along that area.

Chairman Beggs said the use variance is nearly impossible to get.

Mary Jo said if he got a petition from folks along Route 11 asking for the zone change with him it might be helpful to the Town Board.

Adrian Shute would agree that getting an O.K. from people around the property would make it a little easier for the Town Board to take on the rezoning of that area than to take on rezoning all of Route 20 and Route 11. He asked if the Town Board changed the zoning on this parcel to Business, would what he is proposing be O.K.?

Ralph Lamson said a nursery and landscaping business are allowed in a Business District.

Kurt Watson asked how come he has paid taxes on this property assessed as a business when it's not zoned business.

John Langey said he would have to check with Marshall Taylor on that.

Ralph Lamson said he would be willing to write a letter to the Town Board about what went on tonight and bring this matter to their attention and suggest it be addressed.

Kurt Watson said this property is in a State Agricultural District.

John Langey believes the landscaping business cannot be run from this property.

Chairman Beggs said Kurt Watson will need to get a letter from the Agricultural and Markets Division stating that this is an approved activity in an Agricultural District and that this property is in a recognized Agricultural District. That will be required before he comes before this Board for permit approval. He would still like to see the Route 11 corridor looked at for rezoning to Business.

Member Kuhns said there should be approval for the driveway too.

Ralph Lamson said there is an existing driveway which the N.Y.S. D.O.T. just needs to give its O.K. on.

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

The Zoning Board of Appeals Meeting adjourned at 9:01 p.m.

Respectfully submitted,,

Mary Jo Kelly
Secretary

Adopted 12/12/06