

**CALL TO ORDER**

Mr. O'Leary called the meeting to order at 7:33 p.m. and stated it was open to the public in compliance with Public Law 1975, Chapter 231, sections 4 & 13.

**FLAG SALUTE**

**ROLL CALL**

**Members Present:** Hughes, Luthman, Randazzo, Corcoran, Straub Taylor, O'Leary Leuthe (7:35 p.m.).

**Members Excused:** Fette, Didyk.

**Members Absent:** None.

**Also Present:** Ursula Leo, Esq.  
Nevitt Duveneck, PE

**COMPLETNESS / HEARINGS:**

1.) Barnside, Inc. VAR09-14 B:24 L:3.06

Mr. Lawrence Cohen stated he was the attorney for the applicant. He said this was a continuing application with variances. They last appeared before the Board on October 28, 2010.

Mr. O'Leary announced that Mr. Leuthe had arrived at 7:35p.m. and joined the Board.

Mr. Hughes asked if the escrow account and taxes were current. The Board Secretary said the taxes were current however the escrow account was low and she had sent a letter requesting the account be replenished. The Board Secretary had been in contact with the applicant's attorney's secretary and she had acknowledged that she received the notice of deficiency. The applicant said he had mailed a check to the Board. The Board agreed to allow the applicant to continue.

Mr. Bach, PE went over the revisions he made to the map with the Board. He explained the driveway realignment and driveway profile sheet to the Board. He said he flagged the area of disturbance out at the property. There was a discussion on the existing driveway. Mr. Bach said there will be a slight decrease in water running off of the new driveway. He said the new driveway will have a swale which is required by ordinance. Mr. Bach noted there is an existing water problem on Dennis Road. He said the driveway is deficient in sight distance, the angle that it enters the roadway and the two driveways should have 150 feet in between them which the proposal will not have.

Mr. Bach entered and marked a color version of sheet 2 of 3 as exhibit A-2. He explained the modification he was proposing to the Board. He said there would need to be significant grading to get the 240 foot required sight distance. He said when he was at the site he observed the traffic and said he saw no cars. Mr. Bach felt the sight distance they were proposing was safe for the traffic on Dennis Road. He said most of the traffic coming out of the driveway would be going to the left. Mr. Bach explained they were proposing putting the house on the flattened part of the property and there was only one place for the septic. Mr. Duveneck felt there were safety concerns with the proposed driveway. Mr. Corcoran and Mr. Leuthe expressed a concern with the line of sight coming out of the driveway. Mr. Leuthe said there is more traffic on the roadway than is being testified to. He said all of the traffic on Dennis Road will need to pass the proposed driveway and school buses go up and down the road two to three times a day. Mr. Leuthe said there are more than 5 houses on Dennis Road as was being testified to and there are large lots that could be subdivided and developed in the future. He felt there would be a lot of cutting needed to get the driveway in. A lengthy discussion on the driveway ensued.

Mr. Luthman expressed a concern with the area of disturbance needed for the driveway and house. He had a concern that there was only one location for the septic. He said the applicant should show an alternate location for a septic if it were to fail.

A copy of a 1990 resolution dated 9-13-1990 for the subdivision of the property was marked and entered as exhibit A-3. Mr. Duveneck asked why the property was shown to the middle of the road if deed dedication was done in 1990. Mr. Cohen will get a copy of the deed to the Board for their

review. There was a lengthy discussion on the subdivision of the property that took place in 1990. Mr. O'Leary felt the 1990 subdivision was a self-created hardship.

Mr. Hughes asked for the distance from the well to the septic to which Mr. Bach said it was over 100 feet. Mr. Bach said the new construction meets the requirements of well and septic. Mr. Bach clarified that the septic can be located elsewhere if it were to fail. Mr. Hughes asked about the distance of the driveway. Mr. Bach explained this to the Board. Mr. Randazzo asked if the applicant was willing to do the required cut to get the required 240 foot site distance to which Mr. Bach said yes and they would still be below the 35,000 square feet of disturbance. Mr. Randazzo expressed a concern about the removal of large trees.

Mr. O'Leary asked Mr. Duveneck if emergency vehicles could get in and out of the driveway. Mr. Duveneck said they could probably enter and exit to the left however they would have a difficult time turning to the right.

Mr. O'Leary opened the meeting to the public. Mr. Gerald Bouchal of 19 Dennis Road, Lafayette addressed the Board and applicant. He said he felt this lot was a self-created hardship. Ms. Leo noted Mr. Bouchal was an attorney and asked if he was representing a client or himself. Mr. Bouchal said he was representing himself as a resident of Dennis Road.

Mr. William Macko of 20 Dennis Road, Lafayette asked about the angle of the driveway and expressed a concern about emergency vehicles getting to the proposed house. He felt there was no turning radius for emergency vehicles. Mr. Bach felt emergency vehicles will be able to get to the house. Mr. Macko noted the survey the applicant was using which was done by Dykstra Associates was not correct. Mr. Bach said the survey was done by a licensed surveyor and they relied on that.

Mr. Cohen said he had received a letter from Ms. Ward, Esq. of the law firm of Kelly & Ward dated January 27, 2011 which represent United Telephone and they have no problem with the application however they were asking for an agreement for the driveway which the applicant is willing to work out with them. This letter was marked and entered as exhibit A-4.

Mr. Gerald Bouchal said he has no objection to the location to the current driveway. He said the subdivision in 1990 is a self-created hardship. He presented and passed out to the Board a copy of plans dated 7/31/1990 which were from the minor subdivision prepared by Douwe Dykstra which was entered and marked as exhibit O-1. He also presented and passed out a packet of various deeds which were submitted by Mr. Bouchal which were marked and entered as exhibit O-2. Mr. Bouchal explained the 1990 subdivision to the Board. Mr. Cohen had no objection to the deeds that were submitted however he did object to the memorandum prepared by Mr. Bouchal.

With no further members of the public coming forward, the meeting was closed to the public.

Mr. Robert Tessier, PP was sworn in by Ms. Leo. He gave his qualifications which were accepted by the Board. Mr. Tessier reviewed the plans of the property with the Board. He went over the variances being requested. The applicant was requesting a variance for lot size, lot width, lot frontage and minimum unconstrained land. Mr. Tessier said the lot that was created from the 1990 subdivision was a conforming lot at the time. He said the ordinances changed after the subdivision. He explained the wetlands on the property and the unusable land on the property. He said the property has an unusual shape however it was created as a building lot.

Mr. Tessier entered and marked a topographical map of the neighborhood based on a digital map source as exhibit A-5. He explained the elevation to the Board. He said hills wrap around the property and the proposed house will have the hills as a backdrop. He said the house will be seen from Pelletown Road.

Mr. Tessier entered and marked various photos of the area taken in the fall of 2010 by himself as exhibit A-6. He explained the pictures to the Board. He felt the application for a single family home fits in with the zone and is a good use for this lot. He said the Board should grant the variances because they will not create harm to the public good and will meet the zone plan.

Mr. Duveneck suggested the applicant limit the tree cutting. He suggested the owner only use earth tone colors in the construction of the house so it blends in with the landscape. The applicant agreed to this. Mr. Duveneck felt the existing fence along Pelletown Road and Dennis Road creates a sight issue. The applicant agreed to move the fence back.

Mr. O'Leary noted the Board is considering a renewable energy ordinance and asked if solar energy was being proposed to which the applicant said yes.

Ms. Leo asked if the applicant has offered to sell the property or buy property to add to his to make it conforming. Mr. Cohen said the land around the property is all wetlands and would not add anything to the lot.

Mr. Leuthe expressed a concern that the solar aspect of the home would require even more trees to be removed. There was a lengthy discussion on the shade abatement area needed for solar. Mr. Tessier said they will remove the solar from the house.

Mr. O'Leary opened the meeting to the public. Mr. Gerald Bouchal asked for clarification on the two and three acre lots in the area. Mr. Tessier noted the lots on the map. He said the remainder of the lots are 5 acres or more. Mr. Bouchal noted there was an existing barn on the property that was non-conforming. Ms. Leo suggested the Board consider a variance for the barn. Mr. Cohen felt the barn was a historical site.

With nobody else coming forward, the meeting was closed to the public.

A motion to grant the variances and the driveway waiver and with the 9 conditions noted during the hearing was made by Mr. Luthman. It was seconded by Mr. O'Leary and failed with a roll call vote. Ayes: Luthman, O'Leary. Those voting in the negative were Hughes, Randazzo, Corcoran, Straub, Leuthe, Taylor. Mr. Hughes said he felt there was no hardship shown in this application.

2.) Lafayette Asphalt ASP11-1 B:1.02 L:1 Completeness Only

Ms. Megan Ward, Esq. said she was representing the applicant. She said they agreed with the Board Engineer's report. She reviewed a letter she wrote dated 1-27-11. Ms. Ward said they were seeking a temporary certificate of occupancy and requested the application be deemed complete. Mr. Duveneck went over the documents that were submitted to him for his consideration. He said he will do a review of the lighting plan. He recommended the Board deem the application complete.

Mr. O'Leary expressed a concern about how this situation evolved. He said he was disappointed to see the third silo constructed with no approvals or permits. He felt the lighting is hazardous and too bright. Ms. Leo noted the applicant would have to go to the construction office to obtain a temporary certificate of occupancy. Mr. Duveneck noted the lighting on the site is different from what was approved.

A motion to deem the application complete was made by Mr. Randazzo. It was seconded by Mr. Hughes and passed with a roll call vote. Ayes: Hughes, Luthman, Randazzo, Corcoran, Straub, Leuthe, Taylor, O'Leary.

**AUDIENCE:**

Mr. O'Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

**OLD BUSINESS:**

1.) Minor Site Plan

The Board agreed to carry this matter to the February workshop meeting.

2.) Fee Schedule

The Board agreed to carry this matter to the February workshop meeting.

**NEW BUSINESS:** None.

**RESOLUTIONS:** None.

**ORDINANCES:** None.

**ZONING REPORT:** None.

**BILLS:** List # 2.

A motion to pay the bills as presented on list #2 was made by Mr. Leuthe. It was seconded by Mr. Hughes and passed with a roll call vote. Ayes: Hughes, Luthman, Randazzo, Corcoran, Straub, Leuthe, Taylor, O'Leary.

**EXECUTIVE SESSION:** None.

**CORRESPONDENCE:** None.

**ADJOURNMENT:**

With no further business to conduct, a motion to adjourn was made by Mr. Randazzo. It was seconded by Mrs. Straub and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo  
Board Secretary