

**TOWN OF BATAVIA
ZONING BOARD OF APPEALS
REGULAR MEETING
MAY 16, 2006**

PRESENT: Chairman Gary Diegelman, Members, Andrew Young, Dorothy Myers, Mike Pullinzi, Pete Call and John Della Penna (observer).

ALSO ATTENDING: Secretary Sandy Baubie

MINUTES OF PUBLIC HEARING ON APRIL 18, 2006 FOR MARY E HUBBARD –
8077 STATE STREET ROAD - AREA VARIANCE

Mike Pullinzi made a motion to approve the minutes as submitted. Seconded by Andrew Young. Motion carried by unanimous vote for approval (5-0).

MINUTES OF PUBLIC HEARING ON APRIL 18, 2006 FOR DONALD PARTRIDGE-
4957 ELLICOTT ST RD- AREA VARIANCE

Mike Pullinzi made a motion to approve the minutes as submitted. Seconded by Andrew Young. Motion carried by unanimous vote for approval (5-0).

MINUTES FOR REGULAR MEETING ON APRIL 18, 2006

Dorothy Myers made a motion to approve the minutes as submitted. Seconded by Mike Pullinzi. Motion carried by unanimous vote for approval (5-0).

SHANE LEDDON- 4083 PEARL ST RD AREA VARIANCE

An application was presented to obtain approval for a 480 sq foot addition to a single-family residence. Front yard set back requires 50. Existing front yard set back is 45. Front yard set back proposed is 26. County Planning recommends approval for the proposed addition, which was read by Mr. Diegelman.

Andrew Young made a motion to approve the application for Shane Leddon. Seconded by Mike Pullinzi. Motion carried by unanimous vote for approval (5-0).

TRACY GAUSS- 3701 PEARL ST RD- ROAD SIDE STAND- AREA VARIANCE

An application was presented to obtain approval for a permanent roadside stand to sell produce and plants.

Mr. Diegelman read a letter he received from Dr. Pray who resides at 3656 Pearl Street Road. Dr. Pray stated he had no objections to the roadside stand.

Mr. Diegelman read the County Planning recommendation for approval.

A short discussion was held regarding the product sold in the stand. The only product that can be sold is produce and plants grown by them.

Arthur Howland 3726 Pearl Street Road was concerned that Walt Kline did not receive a letter regarding this matter. Mr. Diegelman explained that we did send a letter to him but it was returned to us by the post office. Mr. Howland is also concerned with the amount of traffic that is in and out of the driveway and the greenhouses that are on the back of the property. His major concern is with the pesticides that are being used. Ms. Gauss explained that they grow organically and they do not use pesticides. The trucks that do come in are delivering pots and soil, which is mainly in the spring and fall. Fed Ex trucks come weekly.

Mr. Young explained that our authority does not have to do with pesticides and our concern is with the permanent building that Ms. Gauss wants placed at the end of her driveway.

Judy Cotton- 3704 Pearl Street Road was concerned with what kind of shed is being built, where it will be placed and the hours of operation. She does not want to see this turn into 365 days a year retail store. Ms. Gauss stated that it is a 16x24 Duro shed. They will be opened Wednesday through Sunday through the months of May to December.

Dorothy Myers made a motion to approve the variance to erect a 16x24 shed for her produce for which Ms. Gauss grows. Seconded by Pete Call. Motion carried by unanimous vote for approval (5-0).

DR. MUHAMED IDREES – 57 EDGEWOOD DRIVE- AREA VARIANCE

An application was presented to approve a 27' above ground pool. The rear yard set back required is 30' and the proposed set back is 5'. A side yard set back required is 8' and side yard set back requested is 5'.

County Planning recommends approval, which Mr. Diegelman read.

A short discussion regarding the development and what impact this will have on future residents. There will not be an impact on future residents.

Andrew Young made a motion to approve the variance of an above ground swimming pool with a 5' side yard set back and a 5' rear yard set back. Seconded by Mike Pullinzi. Motion carried by unanimous vote for approval (5-0).

MOTION TO BRING BACK DISCUSSION ON DONALD PARTRIDGE-AREA VARIANCE – TOWERS

Motion made by Mike Pullinzi. Seconded by Pete Call. Motion carried by unanimous vote for approval (5-0).

Mr. Diegelman reviewed last month's discussion as to what was a system. What a system consisted of and whether there was a need for one or two towers on Mr. Partridge's farm. There were many questions regarding the towers. There was a request to get the town

attorney, Kevin Earl, involved with this. There was a meeting held and the concerns were addressed. Mr. Diegelman read a letter from Mr. Earl stating what a system is.

Mr. Partridge was present to explain what exactly he wants to do and what he will need to meet his need. There was a lengthy discussion regarding the towers needed and the size of the towers, the placement of the towers and the usage for the towers. He also presented a picture of the sites where the tower/s would be placed.

The County Planning recommended approval, which was read by Mr. Diegelman.

Dorothy Myers made a motion that Batavia Zoning Board of Appeals, on the 16th day of May 2006, hereby permit the purposed wind energy system at a maximum height of 135'. Seconded by Mike Pullinzi. Motion carried by unanimous vote for approval (5-0).

OLD BUSINESS

Mr. Diegelman explained that he would like to change the ZBA meeting night from Tuesday night to Monday night. A short discussion was held regarding the change of day. Gary Diegelman made a motion that the ZBA meetings be changed to the 3rd Monday of the month. Seconded by John Della Penna. Motion carried by unanimous vote for approval (5-0).

Mr. Diegelman thanked the board for their input regarding the towers and making some good points.

Mike Pullinzi made a motion to adjourn the meeting at 8:10PM. Seconded by Andrew Young. Motion carried by unanimous vote for approval (5-0).

Respectfully submitted,

Gary Diegelman
Chairman

Sandra Baubie
Secretary