

**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, Van Sickle, O'Leary.

**Members Excused:** Fette, Leuthe.

**Members Absent:** Didyk.

**Also Present:** Ursula Leo, Esq.

**COMPLETENESS/ HEARINGS:**

1.) Van Sickle Holdings            Interpretation 11-6            B:15 L:6.01, 6.03, 7.01 & 7.02

Ms. Van Sickle stepped down from the Board for this hearing since it was her application.

Mr. Glen Keinz, Esq. said he was representing the applicant. He said they were seeking an interpretation and zone certification. He said the zone was changed back in 1978. He said the property was always used as a light industrial use since the 1940's. He said there was a junk yard there at one time as well as a slaughter house. Only an acre and a half is being used for light industrial use. The rest is agricultural. Mr. Keinz said the land is assessed industrial. He said they have records that indicate that Lafayette Township has used the businesses located on the property to have their equipment repaired. He said the owners have legal rights on the property. Mr. Keinz said the result of the rezoning puts the owner in a difficult position. He said it is zoned residential however you can't put residential next to a junk yard. He said they want to establish light industrial uses and get a waiver of site plan.

Mr. Kenneth Dykstra, PE was sworn in by Ms. Leo. His qualifications were accepted by the Board. Mr. Dykstra presented a colorized version of sheet 2 of 4 of the plans presented to the Board which was marked and entered as exhibit A-1. He said it was an existing condition survey and the surrounding properties. He said the subject property is 45 acres with significant frontage on Van Sickle Road and the majority of the property is used as a farm. He said the existing building is 5240 square feet in size.

Ms. Sue Van Sickle was sworn in by Ms. Leo. She said her family has owned the property since the 1930's. Her grandfather had bought and sold horses and cows on the property. He sold animal feed and salt blocks as well as running a slaughter house. The slaughter house burnt down. The existing building sits on the site of the burnt slaughter house. Ms. Van Sickle said her father had a junk yard and towing business on the site. He ran this type of business from the 1950's to the 1980's. She said her father did all kinds of equipment repair. Ms. Van Sickle said that in 1967 the existing building was built and Sussex Tank began operating out of the facility. She said they built tanks, septic treatment plants and they had crews that went out to defrost pipes. She said they fabricated and fixed anything brought to them. They sold parts out of the facility. She said they stored all of their equipment on the site.

Ms. Van Sickle said there was a fence company at the site as well as a metal fabricating company. She said Eagle Erectors made anything out of metal. A company by the name of CES moved in while Eagle Erectors was at the site. CES also did metal fabrication, did repair work and sold parts. Casagrande bought out CES and moved their equipment to the site. She said Casagrande eventually moved to Andover.

Mr. Keinz passed out a packet of copies of various documents presented by the applicant which was marked and entered as exhibit A-2. Ms. Van Sickle explained the various documents. The packet contained a copy of an inspection report issued by the construction department dated 6/4/97, a copy of a construction permit dated 5/17/01, a

copy of a building subcode form dated 5/17/01, a copy of an electrical subcode form dated 6/5/01, a copy of a construction permit dated 5/18/07, a copy of a plumbing subcode form dated 5/18/07, a copy of a zoning permit dated 5/18/07, a copy of a certificate of occupancy dated 12/17/01, copies of invoices from CES to Lafayette Township dated 5/10/04, 5/2/05, 6/28/05, 8/12/05, 8/25/05, 5/25/06, 10/25/06, 11/30/06 and 3/28/05, a copy of a letter from Casagrande dated 12/21/06, copies of invoices from Casagrande to Lafayette Township dated 12/12/08, 5/12/09 and 5/29/09, a copy of Light Industrial District from the Lafayette Township Zoning Ordinance with a revision date of 12/08.

Ms. Van Sickle presented the original 1978 tax return for the property which showed her father collected rent for the building which was marked and entered as exhibit A-3. The tax return was passed around for the Board Members to view. This exhibit was later returned to the applicant since it contained personal information.

Ms. Van Sickle presented a 1979 tax return for the property which showed her father rented the building to Sussex Tank Company which was marked and entered as exhibit A-4. This exhibit was returned to the applicant since it contained personal information.

Ms. Van Sickle presented a series of six pictures from the late 1960's or early 1970's which shows Sussex Tank Company operating out of her property. These were marked and entered as exhibit A-5. Ms. Van Sickle explained the pictures to the Board

Ms. Van Sickle presented a series of pictures from the 1980's which show Sussex Tank Company operating on her property. These were marked and entered as exhibit A-6. Ms. Van Sickle explained the pictures to the Board.

Ms. Van Sickle presented a picture from 1996 of the property which showed Sussex Tank had left the building and the site was being cleaned up. The picture was marked and entered as exhibit A-7. Ms. Van Sickle explained the picture to the Board.

Ms. Van Sickle said the building has been empty since June of this year. She said she has had people interested in renting however she needed to come before the Board to get an interpretation of the zoning.

Mr. Randazzo asked if all of the activities that Ms. Van Sickle testified to happened on the property in question to which Ms. Van Sickle said yes.

Mr. Luthman said the issue is not if the tank company operated on the site. He said there has never been a site plan for this property and the use has changed over the years. He felt the applicant has established that there has been a light industrial use there for some time. Mr. Keinz felt a pre-existing use has rights to continue if it existed all along. Ms. Leo explained the law for a certificate for non-conforming pre-existing use and what the Board needs to consider. Mr. Keinz felt the Township recognized the use since they were doing business with the tank company and Casagrande. Mr. Luthman felt that any expansion of a non-conforming use should not have been permitted by the Construction Official.

Mr. O'Leary opened the meeting to the public.

Mr. Jan Schneider of 21 Van Sickle Road, Lafayette addressed the Board in support of the applicant. He said he lived at his current address for 11 years and has no issues with the use on the property. He said he has never seen right of way encroached with any of Casagrande's equipment.

Mr. Craig Ostertag of 36 Van Sickle Road, Lafayette approached the Board. He was sworn in by Ms. Leo. He said he has lived there for 23 years and has never experienced a problem with the businesses at the site. He said they are good neighbors and he is in full support of the applicant.

Mr. John Crane of 28 Van Sickle Road, Lafayette was sworn in by Ms. Leo. Mr. Crane testified that all of the uses at the site have been good neighbors. He said Casagrande did not have the magnitude of business that the tank company had. He felt Ms. Van Sickle should be allowed to continue the use her father and grandfather did.

Mr. Gary Thomas of 29 Meadows Road, Lafayette was sworn in by Ms. Leo. He said he has lived there since the early 1970's and testified that repairs were done on the property.

Ms. Catherine Clink of 60 Beaver Run Road, Lafayette was sworn in by Ms. Leo. She testified that Ms. Van Sickle was a wonderful neighbor and that repairs have been done at the location in question.

Mr. Gary Abato of 63 Meadows Road, Lafayette was sworn in by Ms. Leo. He said he has lived there since 1985 and the street is quiet. He said there is no mess at the junk yard. He felt that Casagrande's cranes would never have fallen into the road.

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

Mr. O'Leary explained to the public that the use goes with the land and the property can be sold and the Board needs to make sure the use is suitable for the zone.

Ms. Leo asked where the activity would be on the site. Mr. Dykstra explained and said less than two acres would be for the industrial use which would include the building and a gravel area between the building and the junk yard. The other 43 acres would be for farming. Ms. Leo asked if there was ever a site plan approval for the two acres of industrial use to which Mr. Keinz said no. Mr. Keinz said Ms. Van Sickle is being taxed on five acres as an industrial use.

Ms. Leo said the Board needs to consider what the use was in the 1970's and 1980's. If that use was in place without abandonment then the applicant is entitled to certification that the Light Industrial use is entitled to continue. She said the applicant is also seeking site plan waiver so long as the use fits with the ordinance. Mr. O'Leary felt a site plan waiver would be difficult because of lighting issues, fencing, curbing and landscaping. Mr. Keinz said some site improvements may be needed but they would need a tenant first. Mr. Keinz felt they had an approval under the law and felt that a site plan would cause a five or six month delay in getting a tenant in. Mr. O'Leary felt there may need to be conditions attached to a site plan approval. Mr. Keinz said the owner is a good neighbor and does not have time to wait for a site plan approval. Mr. O'Leary said the use approval goes with the land and the Board needs to make sure conditions are set in place.

Mr. Luthman asked if the applicant felt two acres is sufficient for the use. He questioned what would happen if the septic system failed. Mr. Keinz said they are just asking for the two acres.

Mr. Randazzo asked if the applicant wanted to expand the building then would a site plan be needed to which Mr. Keinz said yes.

Mr. Hughes felt that sheet 4 of the site layout plan did not show all of the site details that would normally be on a site plan. Ms. Leo said the Board is consider granting a certificate of conformance that the Light Industrial use has been in existence since 1978 and will be allowed to continue, what is presented on the plan and any comments from the Board Engineer and the Zoning Officer. There was a lengthy discussion on what the applicant was seeking approval for.

A motion to approve a certificate continuing the Light Industrial use as specified in the Zoning Ordinance under section 13-13.1 a1, a5, b & d and incidental repair with site plan per sheet 4 of 4 of the plans presented limited to the proposed two acres with review by the Board Engineer and the Construction Official at a TRC meeting with the appropriate escrow posted was made by Mr. Randazzo. It was seconded by Mr. Hughes and passed

with a roll call vote. Ayes: Hughes, Luthman, Randazzo, Corcoran, Straub, Taylor, O'Leary.

Ms. Van Sickle returned to the Board.

**AUDIENCE:**

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

**OLD BUSINESS:**

1.) Chapter 13 Revisions

Mr. O'Leary went over some of the changes made as recommended by the Board Professionals. There was a discussion on the Gateway Overlay Zone and why it carried over to Violet Trail. Mr. O'Leary felt this was a mistake. The Board agreed and will advise Finelli Consulting to make the change to the map on exhibit B in the zoning ordinance.

There was a discussion on the curb weight of a vehicle. The Board agreed to add language to exclude box trucks, semis, tractor trailers or buses in the Residential Zone.

A motion to recommend that the Township Committee adopt the revisions to Chapter 13 was made by Mr. Randazzo. It was seconded by Mrs. Straub and passed with everyone saying aye.

2.) Reserve Septic Location Ordinance

The Board agreed to carry this to the January workshop meeting.

**NEW BUSINESS:**

Mr. Hughes advised the Board that the Merck property is back on the market for sale. The contract with Veritas fell through. He said the Township Committee was meeting with Merck to discuss assessment of the property.

Mr. Hughes advised the Board that Township was changing from Sparta dispatch for emergencies to Newton dispatch.

**RESOLUTIONS:**

1.) Beaver Run Solar Farm Extension of Condition Number Nine

A motion to memorialize the resolution was made by Mr. Randazzo. It was seconded by Mrs. Straub and passed with a roll call vote. Ayes: Luthman, Randazzo, Taylor, Van Sickle, Straub, O'Leary.

**ORDINANCES:** None.

**ZONING REPORT:** None.

**BILLS:** None.

**EXECUTIVE SESSION:** None.

**CORRESPONDENCE:** None.

**ADJOURNMENT:**

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

Respectfully submitted,

Stephanie Pizzulo  
Secretary