

**Minutes of the Zoning Board of Appeals Meeting of the Town of LaFayette held August 9, 2005 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: Steven Beggs, Chairman  
Albert Miller, Member  
Robert Drumm, Member  
Jerry Doolittle, Member**

**ABSENT: Daniel Kuhns, Member**

**RECORDING SECRETARY: Mary Jo Kelly**

**OTHERS PRESENT: John Langey, ZBA Attorney  
Lisa Masters, Applicant  
Gregory Scammell, Supervisor  
Margery Spratt, Applicant  
William May, Applicant  
Dirk Oudemool, Attorney  
Mr. Burlingame, W. Shore Manor  
Jane Praetorius, JRPA  
Bonnie Seeman, JRPA  
Steve Chase, JRPA  
Cindy Baker, Liverpool  
Jillian Baker, Liverpool  
Rose May, Liverpool  
B. May, Liverpool  
R. May, Liverpool  
Margaret Burlingame, 4202 W. Shore Manor  
Russell Burlingame, 4202 W. Shore Manor  
Jean Baker, West Shore Manor  
George Mushow, 4214 W. Shore Manor  
Ed Michalenko, 4174 W. Shore Manor  
Veronica Michalenko, 4174 W. Shore Manor  
Steve Forward, Attorney for applicant  
John Lyons, Applicant  
Nick Gazotis, Applicant  
Alice Streiff, 4205 Coye Rd.  
Sheila Harrington, JRPA  
Paula Naselli, JRPA  
Rick Haskins, JRPA  
J.C. Brower, W. Shore Manor  
K. M. Brower, W. Shore Manor  
Walt & Terry Shannon, Winacre Dr.**

**Chairman Beggs called the meeting to order at 7:40 p.m. and welcomed everyone. Everyone introduced themselves.**

Chairman Beggs asked if there were any corrections or additions to the July 12 Meeting Minutes. There were none.

**Members Miller moved and Doolittle seconded the motion to accept the July 12, 2005 Zoning Board of Appeals Meeting Minutes as submitted by the Secretary. Motion passed unanimously.**

**CASE # 579 – Public Hearing continued for application of Neil J. MacEachen, Jr. & Lisa Masters for a Specific Permit for**

**a**

**flower shop/gift shop on their property located at 2448 Route 11 on the east side of Route 11 approximately 1/8 mile south of the Route 11 and Route 20 intersection in a Hamlet District. (Tax Map No. 018.-02-03.0)**

Chairman Beggs said the applicant is waiting for a letter from the County DOT before coming back to this Board. County Planning recommended she obtain a commercial driveway permit. Rather than taking up the Board's time tonight, she wanted to let the Board know where she is at.

**CASE # 580 – Public Hearing for application of Margery Spratt for a side-yard variance on her property located at 6269**

**Reidy**

**Hill Rd. on the north side of Reidy Hill Rd.**

**approximately**

**½ mile east of the Reidy Hill Rd. and LaFayette Rd. intersection in an Agricultural/Residential**

**District. (Tax**

**Map No. 007.-01-11.1)**

Chairman Beggs said it was decided at the last meeting that the applicant is seeking a side-yard variance.

Margery Spratt said she spoke to Mr. Homer who had no opposition to the garage being placed where she is proposing to put it but he didn't want to sell her any land. She submitted a letter dated July 28, 2005 from Mr. Homer stating she had spoken to him about this.

Members of the Board stated they had been to the site.

Margery said she wishes to construct a 24' long by 20' wide garage.

Chairman Beggs asked if there was anyone present in support of Mrs. Spratt's application. No one came forward.

Chairman Beggs asked if there was anyone present in opposition to Mrs. Spratt's application. No one came forward.

Chairman Beggs asked for any questions or comments from anyone. There were none.

**Member's Drumm 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 grant Margery Spratt a 20' side-yard variance due to a topographical hardship. Motion passed unanimously.**

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

Dirk Oudemool (attorney for the applicant) said he was made aware this evening that communication has been received from the JRPA. He would like to address this. Regarding flooding, his client said prior to the last 2 years this wasn't a recurring situation. He knows there is concern about the waste disposal. Tomorrow morning Mr. Marsh of the County Health Dept. will be meeting with Mr. May to go over the site. He is sure Mr. Marsh will report the trailer has absolutely no toilet or bathroom. There is no kitchen as well. There is a port-a-john on the site propped up on a wooden platform. The opening into the bathroom is 2 ½' above grade. They believe others in the area who have septic systems may have a greater risk to the environment. They know there is a very old septic system on the other half of the island. They are sure Mr. May's is constructed in a way not to pollute. In the early spring there may be nothing in the port-a-john. It's cleaned at the end of the summer.

There is a sumpump. Mr. May has planted new trees on the island and this sumpump brings water to the trees. No water goes into the trailer. Mr. May is using the property the same way everyone else out there does which is for recreational purposes.

They believe the issues listed are listed without complete knowledge of the actual use of the site. The photographs don't show anything different than the photographs the applicant submitted.

The other issues listed at the last meeting were some permit concerns from when Mr. May purchased the property. He attempted to locate someone in Syracuse and the office is now closed. There was no one in the DOT or Canal Corp. that knew anything about this. He has addressed a communication today to the office of General Services out of the State of N.Y. This is the group that transferred the land to Mr. May. He asked the question regarding the restrictions originally imposed by the State of New York.

Chairman Beggs said this Board just wants a letter stating there are no restrictions.

Dirk said he can't guarantee they will send this letter.

Chairman Beggs said the Board just received the documentation from the JRPA this evening. Before the Board can act on this they need a letter from the state releasing or overturning the original letter they put out regarding this property.

Dirk said the state does not normally issue such letters.

Chairman Beggs said in light of the comments submitted, he feels there should be an inspection by the County Health Dept..

John Langey said he spoke to the County Health Dept. today and they will be doing a property inspection.

Chairman Beggs said he personally doesn't have any other questions at this time. The Board has advised the applicant of what he needs. The Board needs to review the documentation received tonight a little more. By next months meeting the Board should have the issues of concern resolved.

Paula Naselli asked what type of port-a-john was there now and where is it located on the island?

Mr. May said it's to the right and rear of the front of the trailer.

Paula asked how they empty it. He mentioned at an earlier meeting it evaporates.

Mr. May said yes and at the end of the summer he pumps is out. He puts chemicals into the port-a-john which evaporate the solids and then turn them into liquids and then it evaporates. He must add water continuously.

A resident from 4174 W. Shore Manor asked if anyone can put a trailer on their property.

Mr. May said yes, however, you can't use it. Anyone can have a camper but cannot use it. He knows of people who have had trailers and have been forced to move them.

Chairman Beggs said he believes the applicant is asking for a permit to have the trailer called a camp for that particular property.

Jane Praetorius said the camper has been there for quite a long time. Now the applicant is asking for it to be put there. He was issued a Court Order to remove it. She doesn't think anyone would be here tonight if he had complied with the Court Order.

Chairman Beggs said she is stating the trailer is illegally there. Is that correct?

Dirk said Mr. May put the trailer there in 2003 after he bought the property in 2002. He did so at that time as he believed it was possible. There is an appeal to the court decision. When Mr. May came to him, he suggested he file the application and work with the town. Legal issues are for courts and lawyers and not clients. Because someone might think it is there illegally, it cannot stop him from coming before this Board to ask permission to have it there.

Mr. Brower said he lives several houses south of the trailer and if this is approved, he will be going before the Assessors and demanding his property taxes be lowered. Having a trailer near his property when it's not in a trailer park lowers the value of his property. He believes several others will do the same thing.

A resident said there will be about 40 others.

Chairman Beggs asked if there were any other comments or questions.

Member Drumm asked if the applicant intends to use this as a residence in the summer.

Dirk said not right now.

Member Drumm said he didn't ask that. He asked if the applicant intends to use it as one in the future.

Dirk said some day there may be some overnighting. In terms of a permanent summer structure, there is no intent. Perhaps some day they will come back requesting to put up a permanent structure. Currently he does not overnight on the island. He has no facilities on the island other than what has been mentioned.

Member Doolittle said at the last meeting Mr. May said his house is 10 minutes away and he has not spent nights on the island due to his allergies.

Dirk said presently he has not. Years ago when he first started using the island they put tents up and he did spend the night.

Russell Burlingame said so right now, as the applicant has no plumbing, we can presume it will stay that way.

Chairman Beggs said based on the response this Board gets from the County Health Dept., he will be restricted by what conditions they have. To change the use, he would have to come back before this Board and reapply to the county. Our Board will use the guidance of the agencies mentioned.

Russell Burlingame said so right now as the applicant has no plumbing, we can presume it will stay that way.

Chairman Beggs said correct.

Paula Naselli said at the last meeting Mr. May also made a statement that he has grandchildren and he is sure that at some point they would con someone into staying overnight with them in the trailer. Is there power on that island to the trailer?

Dirk said no. There is a generator.

Paula asked if it is used for power.

Dirk said yes. There is a sumpump. His client may also want lighting once in awhile but there is no electrical service to the island.

A resident asked how he got the trailer onto the island in the first place.

Dirk said he took it over on the ice.

A resident said he didn't get a permit to do this.

Dirk said his client thought he had a right to do this.

A resident said she had to come before this Board for a variance. She was eager to do this as they wanted to be in compliance as they live in the Town of LaFayette. If it's fair for her, it is fair for him.

Chairman Beggs said the legal issue is before the court. Right now the applicant has a right to apply for a specific permit to use the RV as a camp. That is the purpose of this hearing.

Russell Burlingame said his house had to be 30' from the water. Does a camp have to have certain setbacks too?

Member Miller said since it's not a permanent structure, it doesn't fall under the guidelines.

Paula said if it's a camp, it should follow the setbacks of the town. She's sure the town has setbacks from the shoreline, etc. If this is going to be called a camp, shouldn't it have to follow the same guidelines?

Member Miller believes the setbacks have to be reasonable for an island.

Paula believes the applicant should be applying for a variance as well. If she has to follow the town's rules, so should Mr. May.

Member Miller doesn't think there is anything in the Zoning Ordinance about setbacks from water.

Paula asked about them from a shoreline. How far back does a structure have to be?

Member Miller said it's an island.

Chairman Beggs said he will discuss this question with counsel to find out the answer. He appreciates her bringing this to the Board's attention.

A resident asked if they are having this changed from a trailer to a camp, will it be taxed differently?

John Langey said this Board doesn't deal with assessments and can't comment on that question.

Mr. Brower said all they are really asking is that the Board enforce the town rules regarding structures. He thinks the entire neighborhood is unanimously opposed to the granting of this specific permit.

John Langey said the Zoning Board of Appeals is not allowed to consider a majority's likes or dislikes for a particular project. If they were to rely solely on that, it would be overturned by a court of law.

Chairman Beggs said there have been some issues brought out tonight that are well founded issues.

John Langey said he will look into the issue of the setbacks and he will research the answer.

Member Doolittle asked if the Board didn't use setback requirements on this island when it discussed the proposed shed.

John believes at that time the applicant wanted to erect the shed within a certain distance from his neighbor and then withdrew the application.

Member Miller believes it was towards a property line.

Chairman Beggs said setbacks from property lines should apply to the adjacent property owner.

Member Drumm said that would be the other property owner on the island but we don't know about the water.

John will look into this.

Russell Burlingame said he had to apply for a 5' variance from the waterfront when he put on his addition.

Mr. Brower asked how Mr. May accesses the island. What is his right-of-way?

Dirk said from the marina by boat. Mr. May could access it from any place on the lake that someone would let him. There is state land that he would be allowed to access it from.

Chairman Beggs said this will be tabled until the Boards next meeting.

**CASE # 582 - Public Hearing for Stephen Beggs for a 10' side-yard variance of his property located at 5812 Winacre Dr. approximately 300' east of the Winacre Drive and**

**Route 11 intersection in an Agricultural/Residential District. (Tax Map No. 023-04-11.0)**

The Board will return to this application at the end of the meeting.

**CASE # 583 - Sketch Plan Conference for application of Cindi Holtzmaster for a front-yard setback variance for her property at 3033 Apulia Rd. approximately 100' north of the Apulia Rd. and Bush Rd. intersection in an Agricultural/Residential District. (Tax Map No. 007.-02-19.2)**

Cindy Holtzmaster said she would like to put up a shed but can't meet the setback of 75' from the highway center line. The front corner of the shed is 61' from the center of the road.

Chairman Beggs asked how far the house is from the road. He asked if the shed is behind the house.

Member Drumm said it looks like the front of the house is 77' from the center of the road.

John Langey isn't sure she needs a variance.

Cindy said the road curves which makes the proposed shed closer to the highway center line than 75'.

John Langey said if she puts the shed behind the house, unless the road really curves a lot, it doesn't seem like she would need a variance. When you add the numbers up on the survey, it doesn't appear she would need one.

Member Doolittle would recommend having the Code Enforcement Officer, Ralph Lamson, go down and measure it.

John Lyons and Nick Gazotis were present to discuss a potential salvage operation on Nick Gazotis's property on Route 11 North. Steve Forward introduced himself as the attorney representing the potential applicants. He advised the property is zoned industrial. They appreciate having been put on the agenda. Automotive Recovery Services is headquartered out of Indiana. They have about 30 of these salvage companies.

John Lyons said they have one in Buffalo, one in Colony near Albany and one on Long Island.

Steve Forward said they are looking to put one half-way between these two sites. They act as an agent for insurance companies if vehicles are totaled. They pick up the vehicles and store them. They hold an auction once a week. Ralph Lamson suggested this might fall under what the town has in its code as a junk yard. This is a little step before that as there is no dismantling at the location. They are clear wrapped, inventoried and put up for sale at the site.

John Lyons said it's a whole-sale operation.

Steve said in New York State they operate under a salvage pool license. This is a separate license. It would not be the same as the Syracuse Auto Auction where they are selling whole cars that are running. They are looking at this to rent with the possibility of purchasing the northern 6 acres of the old Booher site from the current owner.

John Lyons said there are residents on the left side of the property. They would be entering on the right side.

Steve said the plan would be to put a modular office space there. There would be parking for visitors and people who are attending the auction behind where the current residence is and by the back fields. The property is now pretty much gravel and some old cement pads. The applicant would be looking to level it out with gravel. Fencing would be put up all along the property so that it would be completely sealed off.

John Lyons said there is over 100 salvage pools around the country. It's basically a brokerage facility for insurance companies. They also represent charities such as the Kidney Foundation, Cancer Society, etc. Their two main clients are insurance industries and the charitable groups. The motor vehicle department has a separate set of criteria for a salvage pool license. It deals with record keeping procedures, storage procedures, etc. It does not allow them to dismantle a car.

John Langey asked if the state has to issue the license per location.

John Lyons said yes. They would need a sign-off stating it's an allowed use by the town. He said there are 4 other facilities in the state of New York. They have companies throughout North America and Canada. They also own whole car auto auctions. It's not their intent to put in a whole car auto auction to compete with the auction down the road.

John Langey believes Cicero or Clay has one of these.

John Lyons thinks the one in Cicero is a salvage auction and a whole-sale auction combined.

John Langey said this Board has to figure out what the applicant needs to ask for. It's not a junk yard. It doesn't fall under anything specific in the towns Zoning Ordinance.

John Lyons showed the Board a map of the site.

Member Drumm asked if they would be buying or leasing the property.

John Lyons said right now they will be leasing the property. This wouldn't include the house.

Chairman Beggs said the property owner must be part of this application.

John Langey said for a project like this, you generally consolidate all the property and prepare a site plan.

The applicant believes it's only one parcel at this time.

Nick Gazotis said this is two tax parcels.

John Langey believes one of the biggest issues would be screening.

John Lyons said they would be willing to do whatever is recommended. He would propose buffers, landscaping and fencing along the front of the property. The remainder of the property would also be fenced in.

Member Drumm asked what type of fencing they usually use.

John Lyons said normally they use a 6' fence with synthetic meshing. It's expensive and they would only propose to do this on the front of the property. They do not do public sales so they are not interested in public visibility. They only do maybe 1 sale a week for about 1 hour. There might be about 60 people who attend the auction.

Chairman Beggs would say this town would like to see something aesthetically pleasing on Route 11, the area by the fields and something aesthetically pleasing from Route 81. We would like something appealing for people going up and down the highways.

Member Drumm asked if a car is in an accident and no one wants it, how long can it stay there?

John Lyons said there is always a scrap metal facility. The file always needs to be closed out. Nothing gets left behind. If the scrap prices go low, you have to sometimes give them away to the scrap dealer. The insurance company must settle the claim and the file must be closed. The average stay of a car is 45 days. In New York State they move relatively quickly. There might be an instance where a legal investigation will take place regarding an accident and the vehicle could be held here. If that was an issue with the town, the vehicle could be moved to Albany or Buffalo for storage.

Chairman Beggs asked if they could designate the structure on the property for long-term storage.

John Lyons said they would prefer to do that as they are responsible to protect the car they have to investigate. They would like to use the existing building to store

their fork truck and other equipment. He showed some pictures of other facilities they have.

Chairman Beggs said this Board will want a parking plan to show the parking facilities for off-street parking for any trucks, trailers and potential buyers. It will need a site plan. It will need clearance from the DOT as a commercial driveway.

Nick Gazotis said it is a commercial driveway already.

John Langey said the Board will want something in writing confirming this from the DOT.

Chairman Beggs said the Board will require a current signed commercial driveway permit, parking plan, site plan and proposed screening. Some computer programs can generate pictures of what the screening will look like. He thinks the Board would like to see good screening along Route 11, the sports fields and Route 81. If the applicant can address these issues, he sees this as a growth opportunity for the town.

Member Drumm said if the applicant is going to do fencing, he would suggest doing it around the whole property for security.

Member Doolittle said the applicant will still have fencing around the entire property but nicer fencing in certain areas.

Member Drumm asked if there would be a crusher on site.

John Lyons said no They only inventory, catalogue and store the vehicles and set up the auctions.

Chairman Beggs asked John Langey if the Board needs documentation as far as environmental protection from salvage vehicles.

John Langey said the long form EAF should be filled out. He asked if they will be doing some regrading.

John Lyons said not necessarily.

John Langey isn't sure what they need to ask for at this point. He isn't sure which Board the applicant needs to appear before.

Chairman Beggs said the sooner we get this started, the sooner we can get them directed to the right Board.

John Lyons said his company needs to know what is going to be required from them before they go forward with this.

John Langey asked how many cars at the maximum would be located at the site.

John Lyons said probably about 300-500 cars.

Member Drumm said you will be having some leaking of oil and gasoline from some of these vehicles.

John Lyons said his company does not drain them. When a car gets in an accident, most of the fluid drains then. The car would then get towed to a garage and the appraiser would go out to see if they are going to total it or fix it. You have probably 7-15 days before the vehicle gets towed to their facility. Most of the fluids have leaked out of the vehicle by that time. He is not going to tell this Board they will never have any drippings. They have a control operation to handle any leaking from vehicles. They have Best Management Plans. In one town, the town wanted them to apply for a junk yard license. This allowed the CEO to review the operation every year and grant or deny it each year. They are a secondary tower. They do not tow a vehicle from the scene of the accident.

John Langey asked if the cars come in individually or by truckload.

The applicant said they try to bring a truckload at a time. They might sublet their towing out. A lot of independents use small trucks.

Member Doolittle asked when their auctions would be.

John Lyons said during the week at non-peak times. There might be some benefit to piggybacking the existing auto auction hours.

Member Doolittle asked if they have intended lighting.

John Lyons said they would only need lighting for a drop-off area. If they close at 5:00 and the truck is tied up somewhere and can't get there until dark, they would need some sort of lighting.

Chairman Beggs said this Board would request a lighting plan of what they are proposing.

Nick Gazotis asked if the Board would want 6' or 8' fencing.

John Lyons said a lot of this would depend on the elevation.

Chairman Beggs said the Board will take the applicants input and consider it.

Member Doolittle said the Board would want to see any signage they might need. It might help to bring the definition on their license when this is scheduled for a public hearing.

John Langey said the question is which Board he needs to be applying in front of. He must complete his review of the Zoning Ordinance to see what this falls under. If it's something that fits squarely within the permitted uses, it becomes easy to determine. If not, it could require a use variance. All the things this Board has asked for would probably be required information needed no matter which Board he goes before. As far as filling out an application, he doesn't know what the applicant should be asking for at this time.

Chairman Beggs said the information requested tonight is information any Board will be looking for. He would suggest on the site plan to show a storage summary area.

John Lyons said before they spend a lot of money, they would like to know whether or not there are concerns about them locating in this town.

Chairman Beggs said the Board would need to see a preliminary proposal showing what they would like to do before recommending anything.

John Lyons asked with this property in its current shape, would it be permitted for them to store cars there as a temporary drop-off as an exchange site too.

John Langey said they really can't. He will contact the applicants' attorney about this.

Chairman Beggs stepped down from the Board to present his application and appointed Member Miller to chair the remainder of the meeting.

**CASE # 582 - Public Hearing for Stephen Beggs for a 10' side-yard variance of his property located at 5812 Winacre**

**Dr. Drive and Route 11 intersection in an Agricultural/Residential District. (Tax Map No. 023.-04-11.0)**

Steve Beggs said the reason he is requesting a 10' side-yard variance is to locate a storage building on the site. He is proposing to put a 10' x 24' storage

**building up and it would be exactly 16 ½ ‘ from the property line. The requirement is 25’ which means he would need 8 ½’.** Knowing building contractors, he would rather get a 10’ variance so when they put it up if it’s a few inches off, it will still be within the variance request. The structure is going to have a maintenance free siding to match his house. It will have a steel roof. Aesthetically it will enhance the property and not be an eyesore. He has spoken to his neighbors about this.

Chairman Miller asked if there was anyone in attendance to speak in favor of this application. No one came forward.

Chairman Miller asked if there was anyone in attendance to speak in opposition to this application. No one came forward.

Chairman Miller asked the Board if they had any questions or comments.

Member Drumm asked if the applicant has drainage there.

Steve said yes.

Walt Shannon wished to speak in favor of this application. All the neighbors are in agreement for any consideration on Steve’s behalf. They are all closely associated with him in that area and there are no objections from any of them.

Member Drumm said he has checked this over and can’t see a reason not to approve it.

**Member’s Drumm moved and Doolittle seconded the motion to make this Board lead Agency, this is an unlisted action and an negative declaration in the SEQR process and to grant a 10’ side-yard variance to Steve Beggs due to the practical hardship of the geography of the land. Motion passed unanimously.**

**Chairman Miller moved and Member Drumm seconded the motion to adjourn. Motion passed unanimously.**

The Zoning Board of Appeals Meeting adjourned at 9:50 p.m.

Respectfully submitted,

Mary Jo Kelly  
Secretary

Corrected 9/13/05 - Page 10 – Steve Beggs application should read 12’ x 24’ storage building.