

Minutes of the Zoning Board of Appeals Meeting of the Town of LaFayette held October 11, 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: 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  
Gregory Scammell, Supervisor  
Ralph Lamson, CEO  
Robert May, Liverpool  
Brian May, Island  
Bill May, Applicant  
Bonnie Seeman JRPA  
S. Chase, JRPA  
Dirk Oudemool App. Att.  
Pat Reagan, Marcellus  
Paula Naselli, JRPA  
Roger Praetorius, Applicant

Chairman Beggs called the meeting to order at 7:41 p.m. and welcomed everyone. Everyone introduced themselves.

Chairman Beggs asked if there were any corrections or additions to the September 13<sup>th</sup> Meeting Minutes. It was noted at the top of the page the date should be September 13. There were no further corrections or additions. Chairman Beggs said the Minutes will stand as amended.

**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)**

Chairman Beggs said last month this wasn't discussed as the party wasn't ready. A letter from the County Health Dept. regarding septic approval was required. This has been received.

Dirk Oudemool said he furnished a letter from General Services in Albany regarding restrictions on an old permit when the state owned the land. This letter identified there are no restrictions on the use of the land as it's no longer owned by the State of New York. For the record, he responded to counsel regarding a letter from the CEO regarding a statement he made that the trailer on this lot might be in violation of the Junk Yard Law. This trailer is not a vehicle under the New York State Vehicle and Traffic Law. As it has no propulsion, it's not a vehicle. He believes there is no issue here.

**John Langey asked Ralph Lamson to discuss his letter.**

Ralph Lamson said he looked in the traffic law and found the section under the definitions stating trailers shall be considered a motor vehicle. This was Section 359 of the New York State Vehicle and Traffic Law.

John Langey said this stated under Subsection k "...and shall also include a trailer...". At this point Ralph Lamson is relying Subsection k of Section 359. he believes our code defines a trailer as defined under the Vehicle and Traffic Law. This is a difference of opinion between the Code Officer and the Applicant.

Dirk Oudemool said it goes beyond this. In Section 2B of the Junk yard Ordinance where it discusses what is a junk motor vehicle, the ordinance prohibits junk motor vehicles. Under the town's ordinance it defines it as "any motor vehicle, as defined in the Vehicle and Traffic Law of the State of New York, that is unlicensed, old, wrecked, stored, discarded, dismantled or partly dismantled and not in condition for legal use upon the public highway..." This trailer is unlicensed. This trailer could be towed down the highway. It's ready to go. If the CEO is correct and it's a motor vehicle, it must not be in condition for use upon a highway. This trailer could be towed down the highway. This trailer on this lot is not in violation of the Junk Yard Ordinance.

Ralph Lamson said it's not legally ready to go down the road because it's not licensed or inspected.

Dirk Oudemool said it doesn't talk about the fact it's not licensed. The tail end of the process states "...and is not in condition...".

Chairman Beggs asked if he would agree that it would meet the registration requirement of a current registration as far as the CEO is concerned.

Ralph Lamson said if it's not inspected,, it's still not legal to go down the road.

Chairman Beggs said anyone can have a trailer registered, it just can't be put on the road until it gets an inspection certificate. When you register your vehicle, you get a 10 day temporary inspection certificate until you get it inspected.

John Langey said there is a separate issue where someone from the public asked the question of how the Board would deal with setbacks of the property. The case before the Board is for a Specific Permit for a camp. The Applicant might want to discuss setbacks before the Board discusses them.

Dirk Oudemool said this property is not improved in any way. There are no permanent structures on it. There is no requirement in the town's code that a Building permit be obtained to place any of the items on this property. Setbacks, as he views them are a process of a code referable to structures or improvements. This property is for temporary camp usage. He feels the setback process of our code does not pertain to them. That doesn't mean the Board couldn't in interest of the neighborhood impose as reasonable conditions some requirement that various items he uses in conjunction of his camp should be set back some distance from the water. The island is really a triangle. How would you determine the front, side or rear? That doesn't detract from the Board when granting a Specific Permit to impose reasonable conditions.

John Langey asked how long the trailer has been in this particular place.

Dirk Oudemool said since it was placed there.

John Langey asked if it is moved about the island.

Dirk Oudemool said no.

John Langey said counsels argument is that it's not a structure. The definition of structure in the Zoning Ordinance is "...anything that is constructed or erected with fixed

location on the ground or attached to something that has affixed location to the ground...” Do you consider the trailer when it’s placed there to be erected and when you place it in a fixed location? This is the interpretation of the Board. Do you think that the fact that the Applicant has stated it stays in one spot, it’s a fixed location? If you determine it to be a structure, setbacks apply.

Ralph Lamson said when this whole thing started first of all it’s a motor vehicle. If you get by that and decide it’s a camp then it’s considered a permitted structure.

Chairman Beggs said his opinion is basically you can’t have the 75’ from the highway center line for the front property. However, 50’ from the front property line would apply. The Ordinance calls for it to be 25’ from the side property line. He believes the neighboring property owner would be the side yard. In the sketches, he complies with the side-yard setback. He agrees the island is triangular in shape. It would require a 30’ rear-yard setback. His suggestion is setback of 25’ side which the applicant complies with. 50’ on the front and 30’ on the rear. The sketch shows the property is approximately 97’ wide so he could comply with this.

John Langey said the neighbor would be the side yard as you would have to pick a side yard. When we look at neighboring properties, we use the side-yard setback from the neighbors property line.

Chairman Beggs said assuming that the triangular shape of the island might allow this he thinks it is possible.

John Langey asked if he would like to see a survey showing this.

Chairman Beggs said he thinks this Board needs to request a survey showing all the items on the island. It should show the shoreline.

Dirk Oudemool asked if the Board is determining these issues this evening or is this a request of the Board.

John Langey said the Board is making a request as part of the application that you supply a survey showing the locations of the items on the property. He doesn’t believe the Board is voting now. They don’t have a good enough survey they would like to see where you are proposing to put the trailer on the property as well as the other items.

Dirk Oudemool asked what other items the Board wants located on the map.

The Board would like to see where the port-a-john is located.

John Langey said the Applicant is asking for a Specific Permit which means if it’s approved, whatever the Board approves is what you will get. Why don’t you show your proposal the way you want it to be approved.

Chairman Beggs said he was offering some suggestions.

Dirk Oudemool said so the Board is stating there is a setback for a swing set, a table, a canopy, etc.

John Langey said originally the Applicant was asking for the location of the trailer. The Board is asking for the other items as this is a request for a Specific Permit so they are requesting to see what other items are on the property.

Dirk Oudemool said they will have a survey done and show what exists there.

Chairman Beggs said this is a piece of property that is .224 acres. That ends up being somewhere around 9,700 square feet. Our current zoning is 60,000 square feet. More important, what was the zoning that was in effect when this lot was established? This is a question he has. We need to determine when this section of the island was

established as a building lot. Maybe at the time the requirement was 30,000 square feet. It's less than both of these so it doesn't grandfather in. You would have to request an area variance so the land could be established as a place you could put your camp that would comply. He is looking for a date when this was established as a building lot..

Dirk Oudemool said the land was acquired in 1991. It was a separate lot under the State of New York for many years.

John Langey said while under the State of New York, it was not subject to our regulations.

Dirk Oudemool this was used by the State of New York in a proprietary capacity and was subject to our regulations. It was subject to zoning going back to day one. He believes this was a non-conforming lot when zoning came into existence.

John Langey said if that is your position, there is a separate list of conditions.

Dirk Oudemool said wherever this takes them, it takes them. They came in for a Specific Permit. They believe it started in the 40's.

A person advised in 1946.

John Langey would suggest they review the Zoning Ordinance to determine what lines they wish to proceed under. The testimony they are giving that it was a proprietary use by the state when previous testimony stated they were using the property for a tent, might require them to apply for something different.

Dirk Oudemool said they will apply for a Specific Permit. How else can he proceed?

John Langey said they can go for an expansion of a non-conforming use.

Dirk Oudemool said they are looking for a Specific Permit for a camp. The lot is a non-conforming lot. It was used by the State of New York for many many years. It has been a non-conforming lot since it was first created. He doesn't think it requires a variance for size if the code presently specifies 60,000 square feet as a valid lot. He is stating it's a non-conforming lot.

Chairman Beggs said his question is where is the documentation that establishes this as a lot? Does it grandfather in? What was the requirement when it was established?

Dirk Oudemool said he will get the Board the answer. He asked the Board if they had made a determination of the front, side and back part of the parcel.

Chairman Beggs asked Mr. May what he would consider the front. He was under the impression the front of the property was on the Jamesville side of the survey.

Dirk Oudemool said they own ½ an island. They don't have a front, back or side. They will get a survey locating the items on the property

Member Kuhns asked if the New York State Department advised the original document was still in effect.

Dirk Oudemool said no. This was in effect when Mr. May rented the land to put his tent on it. When this property was purchased by Mr. May, this went away.

Chairman Beggs said this is no longer an issue.

Member Drumm asked when the other half of the island was sold.

Dirk Oudemool said around 1991 the same as this property.

Member Drumm asked if the building was on the other side of the island when it was sold.

Dirk Oudemool said yes.

Member Kuhns asked the when the trailer was placed on the property.

Dirk Oudemool said in February of 2003.

Chairman Beggs asked if there were nay further questions.

Robert May said when his brother took the property over, there was a burned out camp on it. They have been gong there since 1970. That camp existed on the island that they occupy.

Dirk Oudemool said when Mr. May first purchased a permit from the State of New York, he took the Bill of Sale from the prior permit owner and then, since he owned the property, took the building down in 1981 or 1982.

Chairman Beggs said in the document from the New York State Dept. it says the owner would be responsible for removing the burned out cottage. The second condition was that no structures should be erected on the site. The state has since written a letter stating they have no interest in this as they no longer own the property. The subject before this Board is consideration of putting a camp on the island and can the trailer be used as a camp. If we consider this a structure then the matter of setback requirements come up. The other thing he wants to establish is when it was established as a lot.

John Langey asked for somebody to research what the zoning requirements were when the applicant purchased the property.

Chairman Beggs needs to know the date first.

Member Doolittle said if there was a camp and it was torn down, if that did not meeting zoning, they would have to start over. It's not grandfathered once you remove it.

Dirk Oudemool said they are not here to put a building up on that site or to get a building permit. That would involve a whole separate consideration. His position is that they are not here to put a permanent structure on. They are here for a Specific Permit for a camp.

Member Doolittle said part the determination is if this is a permanent structure, a camp, etc.

Member Kuhns asked if when this lot was subdivided into two lots is when this became a building lot.

Chairman Beggs doesn't know.

John Langey would like to hear more about the island. The island was there and the state utilized it as one piece of land with two structures on it. At some point in time the state put a line through it giving a part to Mr. May and the other to the Steigerwalds. Some might say it looks like you took a nonconforming lot and made it more nonconforming.

Member Kuhns asked when this happened.

John Langey said in 1991. At that time an area that was two small to begin with was made even smaller. At that time Mr. May testified he used tents for years. Up until 2003 he tented and now he is here because he has moved something of a more permanent nature on this piece of the island which he states has been in the same spot since he moved it there.

Member Kuhns said if this occurred in 1991, a subdivision should have been obtained.

Someone from the public said they instructed both sides of the island to take down the structure. They took down their structure.

Member Doolittle asked Ralph Lamson if you can take a trailer of the type you haul behind a truck on a highway and put it on property and use it for a storage place.

Ralph Lamson said no. If you kept it licensed, registered and inspected and were using it as storage but it could still be capable of being used as a trailer, yes. If not, if you don't, it would fall under the Junk Yard Ordinance.

Member Doolittle asked if you can have an unlicensed vehicle on your property.

Ralph Lamson said no.

Member Doolittle said if there were a lake in the town, could you put a trailer there and camp there?

Ralph Lamson said if it were a licensed, registered vehicle.

Chairman Beggs said the owner of the property would have to apply for a Specific permit to establish the trailer as a camp.

John Langey said a camp in an Agricultural/Residential District requires a Specific Permit. In addition, the Board is looking at the issues of whether this trailer qualifies as a camp and it is trying to determine if the setbacks would apply.

Ralph Lamson said he had 3 other cases a few years ago with trailers along Butternut Creek. They were given the opportunity to remove the trailers or come before the Board to request a Specific Permit.

John Langey said when the Board makes it's determination,, there's criteria the Board must go through. Reasons will have to be given to support their decision.

Supervisor Scammell asked if the back of the property had to be opposite the front.

John Langey said not really. If you have a triangular lot, it can be up to the Applicant. The Board uses the neighboring property owner's line as the side yard as it makes the most sense.

It was decided the public hearing for this application will be continued at the next meeting.

**CASE # 584 – Sketch Plan Conference for application of Roger and Jane Praetorius of 4127 Route 91 approximately 1 ½ miles south of Jamesville for a side yard variance of their property which is located in an Agricultural/Residential District. (Tax Map No. 001.-05-11.0).**

Roger Praetorius was present. He showed the Board where the well is located on his property and why he has to place the garage where he is proposing to. There are wires and utility poles which interfere too

Member Drumm noted he needs a 15' variance.

Member Kuhns asked what it takes to combine lots.

John Langey said you usually have a resubdivision to combine the lots.

Discussion took place on whether the property exists as two lots or one.

Chairman Beggs advised Roger Praetorius to be sure this is one parcel and not two.

The Board will wait to hear from Roger Praetorius as to whether he needs to proceed for a variance or not.

Paula Naselli said the Onondaga County court and the Town of LaFayette Court ruled this was a trailer. How can it be determined it's a camp here?

John Langey doesn't think that was what the trial was about. He thinks it was about Mr. May having this particular use of the property without approval from the Town.

Ralph Lamson said Judge Knapp's determination was that the Applicant had set up a camp without a Specific Permit.

Paula Naselli believes in the appeal the judge determined this was a trailer.

John Langey will check into this.

Paula Naselli believes the judge said this was not a camp and that it was a trailer.

John Langey will check to see.

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

The Zoning Board of Appeals Meeting adjourned at 9:10 p.m.

Respectfully submitted,

Mary Jo Kelly  
Secretary

Adopted 11/8/05 with following correction: page 5 "nay" should read "any".