

Minutes of the Zoning Board of Appeals Meeting of the Town of LaFayette held December 13, 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: Albert Miller, Acting Chairman  
Robert Drumm, Member  
Daniel Kuhns, Member  
Jerry Doolittle, Member

ABSENT: Stephen Beggs, Chairman

RECORDING SECRETARY: Mary Jo Kelly

OTHERS PRESENT: John Langey, ZBA Attorney  
Gregory Scammell, Supervisor  
Ralph Lamson, CEO  
Robert May, Liverpool  
Paula Naselli, Westshore Manor, JRPA  
Steve Chase, Westshore Manor JRPA  
Tim Brayman, JTHOA, Jamesville  
Jamie Kriz-Orso, 2071 Jamesville Terrace  
Jim Orso, 2071 Jamesville Terrace  
Richard May, Liverpool  
Brian May, Island  
William May, Applicant  
Dirk Oudemool, App. Att.  
Rick Haskins, Westshore Manor, JRPA  
Pauline Mattes, 4115 Pompey Rd.  
Mr. & Mrs. Thomas Kowalski, 6313 Reidy Hill  
Bonnie Seeman, West Shore Manor  
Robert Latocha, Applicant  
Sheila Hayt, Jamesville Terrace, JRPA  
Jim & Karen Brower, 4190 West Shore Manor  
Roger Praetorius, Applicant

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

Acting Chairman Miller asked if there were any corrections or additions to the November 14<sup>th</sup> Meeting Minutes. There were none.

**Member's Drumm moved and Kuhns seconded the motion to accept the November 14, 2005, Zoning Board of Appeals Meeting Minutes as submitted by the Secretary. 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 introduced himself as the attorney for the applicant. They have done more work on this that the Board requested them to do. He submitted dimensional surveys showing the temporary items located on the island. They wish to clarify for the record that the lot that Mr. May owns is a non-conforming lot. It existed as a separate lot at least as far back as 1955 and they believe it goes back another 10 years before that. The State of New York doesn't have any records but they feel confident the county could produce records that would go back that far if they had the time. The two lots on the island are pre-existing non-conforming lots. They are not seeking to diminish the size of the lots. The items on the island are readily moveable. No mechanical means was required to move the items on the island. Setbacks under our code do not pertain to these structures. The structures are readily moveable and not permanent so the setbacks don't apply. The lot is a nonconforming parcel. The structure is being used as a camp. This is a place that is being used on a temporary basis seasonally by a family for recreational purposes so they believe it would meet the definition under our code and therefore are entitled to grant Mr. May a Specific Permit.

Member Doolittle asked John Langey if this is a pre-existing lot, is he correct in saying it doesn't have to meet setback requirements for a structure?

John Langey said there are two laws that come into play. They are here for application for a Specific Permit approval. You are allowed to grant it based on specific conditions. You are allowed to state the property setbacks. In regard to a non-conforming lot, it's addressed in the Zoning Ordinance. It states there are lots that were lawful before the Ordinance and not now. He asked Dirk Oudemool if they wanted to get something from the county showing this was pre-existing. There's a section of the Ordinance that addresses a lot not being able to meet the setback requirements. It allows you to have a use on a lot when it's too small. It also says this only applies to the lot area. If the Board is inclined to impose the setbacks for a camp, you could impose them. The bottom line is the Board has control over how far back these items should be placed from the lot lines.

Member Doolittle said if it's a pre-existing condition, the Board has two ways to interpret it. Because it's there, the lot setbacks don't apply.

John Langey said the applicant is arguing that these aren't structures. He is stating setbacks don't apply to the camp trailer. The other argument is that because it's a non-conforming lot, the setbacks don't apply. The Board can site this the way they want to.

Member Doolittle said the second thing we must decide is if it's a structure.

John Langey said the CEO previously stated this would fall under the Junk Vehicle Law. There was discussion prior to this meeting whether it's a junk vehicle. Counsel for the applicant stated why he doesn't think it is and the CEO has stated why he thinks it is.

Acting Chairman Miller asked if what kind of trailer it is would determine this. Can it be permanent?

Ralph Lamson said it's a tow-behind.

Acting Chairman Miller said a trailer is a trailer whether it's part-time or full-time.

Ralph Lamson said the difference between this one and a trailer in a trailer park is that they aren't licensed or registered to be on the road if in trailer parks.

Acting Chairman Miller believes this is still a trailer. It was a trailer and still is a trailer whether people are camping there or living there.

John Langey said the testimony has been he wants to camp with the trailer.

Acting Chairman Miller asked how you interpret this as an allowable use?

John Langey said the interpretation will be up to the Board. We don't have specific information of what a camp is and what comprises a camp. The applicant is showing a trailer on this site which he is using as a campsite. He has moved the trailer to a more centralized area. The measurements on the map which for the record, the Town Clerk was only involved in calculating the numbers Mr. May gave her, show the trailer as being 26.32' from the East boundary, 35.64' from the West boundary and 37.52' neighbors property. What if you are to determine the East and West are side-yards which is a 25' setback? He would only need a few feet of a variance if the setbacks were imposed. The worst case scenario is that he would need 13 feet of relief. The Board can make a condition of the approval where the rest of the items on the island are positioned.

Member Drumm said there are two or three definitions of a camp in Webster's Dictionary. All of them seem to be temporary unless you build a permanent structure. A camp could be an area or a permanent structure. There wasn't anything mentioned in there about trailers.

John Langey said a camp is a use or whatever the camper is doing. The Board has control over locating items on the site. If and when the board votes on this, there are certain criteria that you have to determine under the Specific Permit criteria. He read the criteria from the Zoning Ordinance.

Member Doolittle said if this were not an island and just a plot of land some place and a person came along with a tow-behind trailer and put it on the site and took off the wheels, would it be allowed? What are we talking about?

Member Drumm thinks a trailer is a trailer.

John Langey said the Board has many options. We did get a letter from the Dept. of Health that they are fine with the port-a-john. He did make them aware that the property floods on occasion so they were aware of that. The Office of General Services does not believe they have any currently imposed conditions for the use of the property.

Member Doolittle said he calculated measurements and feels the applicant could meet the setbacks if he moved the trailer a little to the north.

John Langey said he believes they stated they don't use the trailer to sleep in.

Dirk Oudemool said currently they don't. In the future they might want to use it. They would like to continue to use it in a general way.

John Langey said the applicant is not proposing they will not use the camp trailer as an overnight shelter.

Dirk Oudemool said at this point they are asking for the permit for a camp. They believe a camp can be used for overnight on a seasonal basis. They believe under our code a camp is akin to a campsite.

Member Drumm doesn't have a problem with a permanent structure there but he does have a problem with a trailer.

Member Doolittle said he believes the same. He would not have a problem with a structure of this size being put there but he doesn't think it's good to set precedent for a trailer to be allowed.

Member Kuhns said the fact that it was moved easily makes him think it's not a permanent structure.

Member Drumm said the Board could give relief on a permanent structure there. He has a problem with the trailer. He agrees with Member Doolittle that it sets a bad precedence.

Member Kuhns said what he has seen of the area, it does not necessarily fit in with the surrounding properties.

Acting Chairman Miller asked for any other thoughts from the Board.

Member Kuhns said his understanding from previous meetings is that this property was purchased directly from the state. It almost appears that it was deeded to the county.

Dirk Oudemool said the state owned it going way way back. For many years they continued to own it but they leased it out on a seasonal basis as campsites. On this site there was a permanent structure which burned down some time in the 80's. When Mr. May came along he wanted to clear the site and he wanted to use it and they have used it with temporary camping gear. In 1991 they decided to sell the land. Because Mr. May and the neighboring property owner had been there, the state came to them first to see if they wanted to purchase the land.

Member Kuhns said then he doesn't understand the 1955 reference from the county.

Dirk Oudemool said because the state was using this land for a purpose not as a given purpose, the town and county were allowed to assess the structures. Mr. May didn't pay taxes on the property while it was vacant as there was no assessment on it.

Member Drumm asked if there is anything showing where the neighbor's buildings are located.

Mr. May said the first building is a shed which is about 8 feet from his property which was built before he arrived in the 80's. The next one is their cottage which would be about 50' from the property line. It could be less.

Member Drumm said that is a pre-existing building so this Board wouldn't have anything to do with it anyway. He asked if the length of the trailer.

Someone said 38'.

Mr. May said 35' in length.

Member Kuhns asked what the title says the length is.

John Langey said at the last meeting the Board asked Mr. May to provide them with an updated survey. At this point it's a public hearing so the public can make their comments.

Acting Chairman Miller asked if there was anyone who would like to speak in favor of this application. No one came forward.

Acting Chairman Miller asked if there was anyone who would like to speak in opposition to this application.

Roger Praetorius said that trailer is there 365 days a year. That is a permanent thing. The statement it's temporary is nonsense. The whole idea that the temporary camp can come and go is nonsense.

Tim Brayman asked if this property is covered by what is considered the State Blue line.

John Langey asked Dirk Oudemool if his client has acquired all the rights of the island down to the shoreline where the island touches the water at it's lowest point. Is any of this land owned by the state to their knowledge?

Dirk Oudemool read the definition from the deed. It states within the blue line. As far as they know, they have a right to use the land to the edge of the water. They have full access at all areas.

Tim Brayman said he knows that anything that touches the original blue line to the existing waterfront as we know it today, is property that is unalterable.

John Langey said if there's an issue to ownership of the blue line, the state would have a claim against the applicant using the land. He is not in a position to tell if any of this application involves blue line land.

Dirk Oudemool said on the survey, the Board will notice all the structures are inside the T Bank lines on the island. The water level may rise to the T Bank but no further.

Mr. May said T Bank means the top of the bank.

Bonnie Seeman said if she were to buy a structure like this, it would be listed as a travel trailer and not as a camp. She believes it's in violation. She is not pleased to have a trailer located in an area where the rest of properties have structures.

Jim Brower is opposed to this Specific Permit for various reasons. He thinks if you look at an old taxmap and find the footprint of the actual camp on there, it was actually smaller than Mr. May's trailer. The area is not zoned for trailers. Trailers with or without wheels are inconsistent with the neighborhood. There is question whether the trailer can meet the setbacks. He is opposed for all these reasons to grant the Specific Permit.

Tim Brayman asked if we will get a resolution as to what the blue line portion of this property is. He knows you can't alter what is technically the state blue line.

John Langey said the blue line issue with the Grove was extremely important to the subdivision process. The public pointed out you cannot subdivide what you don't own. We don't have anything suggesting he doesn't own the land. At this point, he doesn't know if there's anything else that the applicant can show us about the blue line. He asked Dirk Oudemool about this. If this were a subdivision he would be more concerned about it. There is a deed to the land. Maybe he could get the surveyor to look at a map and state he didn't include any blue line in the survey.

Dirk Oudemool isn't sure there's significance to a blue line. They are not proposing in any manner to put a permanent structure on the site. They are all moveable temporary items that would not interfere with the state. The state and county know they are there. No one has complained about the trailer or anything they are using. They believe there is no issue. They have a deed that describes the land. They have a letter from the State of New York which says there are no restrictions imposed on this land by the State of New York.

John Langey would tend to agree with this.

Member Doolittle said if the state said this is the land we are deeding to you, he isn't actually building next to the shoreline so he couldn't be infringing on anything anyway.

A resident asked if there is an ownership concern, wouldn't it affect the setbacks?

John Langey said if somebody brings this Board evidence prior to a decision, it would have to stop and look at it. At this point, the Board doesn't have enough to impact their decision.

Paula Naselli wanted to be on the record that she opposes the granting of a Specific Permit. She doesn't believe this is appropriate for the lot location. It brings the neighborhood down. It's not consistent with the neighborhood. Homes in the area are upgrading, not degrading. They are not a trailer park in that area. It's not a good transition. Based on the town guidelines, it shouldn't be approved.

Member Drumm asked if he needs a permit to camp there.

John Langey said yes.

Member Drumm asked even to set a tent up on it?

John Langey said this camp has things that go along with a camp use. One of the things they are proposing is the use of a trailer. They are requesting to use it as a camp. If the applicant wanted this to be a camp and wanted to put a log building up there, he would still need permission to use it as a camp. The Board has the power to approve this with conditions or can disapprove it. The Board can take the evidence they have received and consider the application. The Chairman isn't her tonight. The Board can close the public hearing and consider the evidence put before them. If the Board is very comfortable with this, they can make a decision on it. The Board can close the public hearing and decide or close the public hearing and hold it.

Robert Keough said he is a taxpayer and he would think this would establish a very poor precedent that anyone can drag a trailer onto their property, take the wheels off and call it a camp.

Brian May said he has been enjoying the Jamesville area since he was a child for recreational purposes. A piece of property sold for \$100,000 recently. It was a very small piece of land. It was a lot of money for a small piece of land.

Roger Praetorius said he is here to get a permit to build a garage. Why doesn't the applicant have to remove the trailer from the property and make him apply to get it back on?

John Langey said the applicant is involved in a court proceeding that is addressing it.

Paula Naselli asked if this isn't over.

Roger Praetorius asked if there isn't a court order stating he is not in compliance.

John Langey said the applicant advised he wished to apply for this to be used as a camp and the court directed him to this Board.

Jim Brower said with respect to the neighboring property, there isn't much of a comparison between this property and that one.

A resident said if you put up a temporary structure on vacant land and use it as a campsite, how would it be taxed? There are a lot of people paying taxes on homes and you have a temporary structure here. How is it taxed?

Acting Chairman Miller said they would have to ask the Assessors this question. He asked for any other comments or questions. There were none. He suggested the Board review the information submitted.

Member Drumm believes this would be voted on at the next meeting.

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

John Langey would recommend the board refamiliarize themselves with the criteria that governs Specific Permits.

**CASE # 584 – Public Hearing 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. 004.-01-13.1).**

Roger Praetorius said there are actually 6 lots. He has spoke to a surveyor who will do a survey showing all the parcels as one lot.

John Langey said the applicant has come before the Board previously and explained the reasons for the hardship that he can't place the garage anywhere else.

Roger Praetorius said there is a utility pole and a well which are the hardships he is facing.

John Langey said the county questions whether the applicant needs a variance or not. We are interested in the survey rather than the taxmaps. Taxmaps are not certified by a surveyor.

Someone asked if this is the property across from the cove.

Roger Praetorius said it's the previous Rothchild property. He thinks this is a different piece of property. He doesn't believe there is a cove by this property.

The person asked if there is a stream running through the property.

Roger Praetorius said not on this property.

Acting Chairman Miller asked if there were any other questions or comments.

Mr. Kowalski said his mother-in-law owns the property on the north and east.

They feel there is some way the applicant can come up with a design to meet the requirements of the zoning regulations. The garage could be put in a different spot. His mother-in-law doesn't now what she is going to do with her property on the east but doesn't want this encroachment to affect that land. The design being presented is not the only design possible. He believes the applicant could come up with a design that would comply with zoning.

Acting Chairman Miller asked for any other questions or comments. There were none.

**Member's Doolittle moved and Kuhns seconded the motion to close the public hearing. Motion passed unanimously.**

**Member's Doolittle moved and Drumm 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 Roger & Jane Praetorius a 15' side-yard variance to allow for placement of a proposed 30' 24' garage structure to be located no closer than 10' from the most easterly side boundary with the following conditions:**

- 1) The applicant must demonstrate adequate sedimentation control to ensure that storm water runoff from the project does not impact Jamesville Reservoir.**

- 2) **The Town should work with the applicant to define the exact property dimensions and clarify the extent of the area variance required.**

**Motion passed unanimously.**

**CASE # 585 – Sketch Plan Conference of Robert Latocha for a side-yard variance of property located at 6475 Oschner Road approximately 500’ from the Oschner Road and Apulia Road intersection in a Residential/Planned Cluster District. (Tax Map # 002.-03-04.0)**

The applicant would like to erect a private garage to store no more than 4 cars on a lot approximately 10,000 square feet which fronts of Oschner Rd. The Board discussed the fact that the applicant and the residential neighborhood would be better served to relocate the building towards the railroad track side of the property so that the proposal now is to be 8’ from the more easterly line.

It was noted the applicant will need 2 side yard variances and a road frontage variance.

The applicant submitted a letter from the owner of the property stating Robert Latocha can act on his behalf.

**Member’s Drumm moved and Doolittle seconded the motion to schedule this for a public hearing at the January Meeting if all the paperwork/survey is submitted in time to refer this to County Planning. Motion passed unanimously.**

An advertisement was submitted for the Watson’s Greenhouse along with some questions.

John Langey said there is no complaint in front of the Board. The ad is for Watson’s Greenhouse and their holiday open house. They list a bunch of stuff they are selling. They are in an Ag District. Mr. Freund asks “Is this an ad about selling items grown in an Agricultural designated district – or- an ad for a retail store in a residential area?” “Are the Watson’s in violation of any Town of LaFayette Ordinances as indicated in this ad?” As a Board, they are here to hear appeals and not to make comments on things. If there is an issue, the residents go to Ralph Lamson. He does an investigation and makes a determination. If the residents disagree with his decision, they can appeal it to the Zoning Board of Appeals.

Ralph Lamson said the Town Board addressed the Irwin property. He has discussed this situation with several people who advise he’s been doing this for over 30 years. Bob Irwin said he’s been doing it since before zoning.

John Langey said many of the things listed on the advertisement are grown there. The Ag. Dept. has said if it’s something you can put your plants in, they do not have a problem with it.

Member Drumm said he thought they couldn’t sell anything that wasn’t grown there.

John Langey said under our Zoning Ordinance we state this and it was upheld by the court. During that time, they went to the state and got into an Ag. District which

allowed them to sell other things that attract customers. At this point, unless there is an investigation, there's not much the Board can do.

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

The Zoning Board of Appeals Meeting adjourned at 9:16.

Respectfully submitted,

Mary Jo Kelly  
Secretary