



## EASTERN NEW YORK SOCIETY OF LAND SURVEYORS

INCORPORATED

Charter Affiliate of the New York State Association of Professional Land Surveyors

P.O. Box 4399, Clifton Park, N.Y. 12065-4399

Visit us on the web at [WWW.ENYSLS.ORG](http://WWW.ENYSLS.ORG)

### GENERAL MEMBERSHIP MEETING

Thursday, November 10, 2005

Crossgates Restaurant, Albany, NY

#### SUSTAINING MEMBERS

BRANDIS AND SONS, INC.  
34 Irvington Street  
Pleasantville, NY 10570  
Contact: Douglass Leaf, Jr.  
914-769-8500  
[Brandisandsons@usa.com](mailto:Brandisandsons@usa.com)

BUNCE POSITIONING  
SYSTEMS  
104 Moody Street  
Ludlow, MA 01056  
1-800-225-9400  
Contact: Dave Shirley

GIFFORD ABSTRACT  
CORP.  
206 Lafayette Street  
Schenectady, NY 12305  
518-374-1323  
Contact: Thomas Gifford

LAFAVE WHITE  
MCGIVERN LS PC  
133 Commercial St PO Box  
679  
Theresa, NY 13691  
315-628-4414  
Contact: Daren L. Morgan  
[info@lafavewhitemcgivern.com](mailto:info@lafavewhitemcgivern.com)  
[m](http://www.lafavewhitemcgivern.com)

MAINE TECHNICAL  
SOURCE  
2634 James Street  
Syracuse NY 13206  
315-414-0306/888-475-2479  
315-414-0310 (fax)  
Contact: Brad Beeler  
[bbeeler@mainetechnical.com](mailto:bbeeler@mainetechnical.com)

MINGOLO PRECISION  
PRODUCTS  
174 South Main Street  
Hackensack, NJ 07601  
1-800-LEVEL-UP  
Contact: Matthew Marchioni

SAGE CAD  
APPLICATIONS, INC.  
1 Computer Drive, South  
Albany, NY 12205  
Contact: Len Kalmer 518-438-  
2223  
[Len@SageCad.com](mailto:Len@SageCad.com)

WAYPOINT TECHNOLOGY  
GROUP  
17 Computer Drive East  
Albany, NY 12205  
518-438-6293  
Contact: Jonathan Cobb/Greg  
Hunt

President Malinowski called the meeting to order at 7:50 P.M., present were 38 members and two sustaining members.

#### Secretary's Report: Jim Vianna

The September minutes, candidates biographies and election ballots were sent out by mail to the membership; a motion was made to accept the minutes by Bill Nettleton, seconded by Randy Paquin; approved.

#### Treasurer's Report: Bill LaPan

A written report was submitted copies are available upon request.

#### President's Report: Joe Malinowski

1. Starting with this meeting, the minutes will no longer be mailed out. The minutes can now be found on-line at our website [WWW.ENYSLS.org](http://WWW.ENYSLS.org). Paper copies will be made available at each meeting. Meeting notices will be e-mailed in advance of each meeting informing members of the time and location, etc. Members are encouraged to add their e-mail address to the secretary's database.
2. The "monument removal" bill was recently approved by the Governor. NYSAPLS has prepared a press release of the law along with a top five list of why you should have your property surveyed.
3. Membership dues need to be paid up by December 1<sup>st</sup> in order to receive the conference "early-bird" rate.
4. A "historical records" committee is being formed to locate and catalogue the records of Eastern to preserve our history, possibly in a digital format where they can be accessed on our website. Any members interested in being on this committee should contact Joe.

#### Committee Reports:

-----Standing Committees-----

#### Legislative: Ellen Nelson

1. The Post Star newspaper in Glens Falls recently ran a story on a local case of adverse possession (*see attached PDF file*). There are some interesting aspects to this case and it's associated ruling. One item of note was that the possessor does not need to know where the boundary lines are.

#### Continuing Education: Chuck Lent/Jody Lounsbury

1. There were 35 attendees at this falls seminar. This was about half of the turnout expected. The seminar was well received and has been accredited for 8hrs. of CEU development for N.Y., Joe thanked Chuck and Jody for their hard work in putting this quality seminar together.

Cont'd

**SUSTAINING MEMBERS**

BRANDIS AND SONS, INC.  
34 Irvington Street  
Pleasantville, NY 10570  
Contact: Douglass Leaf, Jr.  
914-769-8500  
[Brandisandsons@usa.com](mailto:Brandisandsons@usa.com)

BUNCE POSITIONING  
SYSTEMS  
104 Moody Street  
Ludlow, MA 01056  
1-800-225-9400  
Contact: Dave Shirley

GIFFORD ABSTRACT CORP.  
206 Lafayette Street  
Schenectady, NY 12305  
518-374-1323  
Contact: Thomas Gifford

LAFAVE WHITE MCGIVERN  
LS PC  
133 Commercial St PO Box  
679  
Theresa, NY 13691  
315-628-4414  
Contact: Daren L. Morgan  
[info@lafavewhitemcgivern.com](mailto:info@lafavewhitemcgivern.com)

MAINE TECHNICAL  
SOURCE  
2634 James Street  
Syracuse NY 13206  
315-414-0306/888-475-2479  
315-414-0310 (fax)  
Contact: Brad Beeler  
[bbeeler@mainetechnical.com](mailto:bbeeler@mainetechnical.com)

MINGOLO PRECISION  
PRODUCTS  
174 South Main Street  
Hackensack, NJ 07601  
1-800-LEVEL-UP  
Contact: Matthew Marchioni

SAGE CAD APPLICATIONS,  
INC.  
1 Computer Drive, South  
Albany, NY 12205  
Contact: Len Kalmer 518-438-  
2223  
[Len@SageCad.com](mailto:Len@SageCad.com)

WAYPOINT TECHNOLOGY  
GROUP  
17 Computer Drive East  
Albany, NY 12205  
518-438-6293  
Contact: Jonathan Cobb/Greg  
Hunt

-- Temporary Committees ----

**Website:** Kurt Heiss

1. Meeting minutes page is now up and running.
2. Eastern's handbook is being updated and will be available on-line.

**Unfinished Business:**

1. The Colvin birthplace historical marker and post has been received from the manufacturer. Joe will be coordinating the notification of UFPO and city agencies in anticipation of having an unveiling this fall.

**New Business:**

1. Brad Beeler from Maine Technical Source gave an informative presentation on the status of the current Department of Transportation CORS project, whereby dual frequency receivers are being established around the state on DOT buildings.
2. David Shirley of Bunce Positioning Systems introduced himself and updated the members on the recent merger of Bunce with Northeast Supply Corp and New England Positioning. Bunce supplies Topcon GPS, Laser, machine control and total stations. The contact information is still the same as Northeast Supply and can be found on our minute's sidebar.

----- ELECTIONS -----

3. President Malinowski asked if there were any nominations from the floor, hearing none Bill LaPan made a motion to close the poles, seconded by Randy Paquin; approved. President Malinowski then asked the tellers to count the ballots. The tellers reported back, that after counting the ballots, the following individuals were elected to a three-year term on the ENYSLS Board of Directors:

1. Senior Members; **Don Darrah** with 75 votes, **Howard Johannessen** with 81 votes and **Gordon Matson** with 77 votes. There were twelve write-in ballots for Ray Liuzzo, two for Bob Stewart, three for Art Durivarge, one for Jim Vianna and one for Peter Bell.

2. Associate Member: **Kristin Frank** with 50 votes. There were 30 write in ballots for David Weiss, one for Eric Crampton and one for Don Doss.

*Secretary's note: Upon receiving the above results, the Board of Directors reconvened their meeting to elect officers for 2006 as follow:*

*President - Joe Malinowski; Executive Vice President - Bill Darling; Vice President - Bill Whimple; Treasure - Bill LaPan; Secretary - Bob Ihlenburg.*

A motion to adjourn was made Les Denison, seconded by Bill Nettleton: approved.  
Meeting adjourned at 8:25 P.M.

Respectfully submitted,  
James M. Vianna, PLS  
ENYSLS Secretary  
E-mail: [JVannaPLS@aol.com](mailto:JVannaPLS@aol.com)

**EASTERN NEW YORK SOCIETY OF LAND SURVEYORS, INC.**

President: Joseph G. Malinowski	Richard Bennett	2006	Ellen Nelson	2007	Charlie Hartnett	2008
Executive Vice-President: Ellen Nelson	William LaPan	2006	Joseph Malinowski	2007	Robert Ihlenburg	2008
Vice-President: Richard W. Bennett	James Vianna	2006	William Whimple	2007	William Darling	2008
Secretary: James M. Vianna	Jody Lounsbury	2006	Kurt Heiss	2007	Wayne Willson	2008
Treasurer: William S. LaPan						

Past President - Brian Holbitter

Director N.Y. State Assoc. of Professional Land Surveyors - Joseph Malinowski (518) 371-0799

Director N.Y. State Assoc. of Professional Land Surveyors - Ellen Nelson (518) 439-4342

President's Address - 1279 Van Antwerp Road, Schenectady, NY 12309 [jmalinowski@mjels.com](mailto:jmalinowski@mjels.com)



NATHAN PALLACE—NPALLACE@POSTSTAR.COM

Paul and Denise Przybylo stand outside their Queensbury home as they look into a pie-shaped piece of property — an estimated 5,804 square feet — which they lost to a neighbor through the adverse possession law. They have already spent \$15,000 in legal fees on top of taxes paid on the land and have filed a motion through an attorney to appeal the original decision on their case. The couple hopes not only to retrieve their property but also have the adverse possession laws reviewed and made consistent within the state.

## Good surveys make good neighbors

### In Queensbury, 'squatter's rights' case pits neighbor against neighbor

By **CHRISTINE MARGIOTTA**  
cmargiotta@poststar.com

**QUEENSBURY** ♦ You mow it, you own it — as long as no one stops you for at least 10 years.

Sounds unfair, but, according to state law, it can happen.

Just ask Denise Przybylo of 11 Butternut Hill Drive.

Przybylo and her husband, Paul, are taking such a property dispute with neighbor G. Scott Walling to the highest state court. They officially took

their case to the state Court of Appeals on Thursday, when their lawyer served Walling with an appeal of a lower court ruling.

This legal battle began over a 5,800-square-foot slice of the Przybylos' land the Wallings took from them by adverse possession, or "squatter's rights."

Adverse possession is a more than 200-year-old real property law that lawyers say often gets used when neighbors quarrel or neglect to check property lines, or both. It allows a person

to claim title to a piece of land simply by using it for a specified time period without any objection from the property owner. In New York state, a person must use the land for at least 10 years with no protest before they can claim it as their own.

It's a law that's rarely pursued, said Patricia Watkins, a real estate attorney with the Glens Falls firm Bartlett, Pontiff Stewart and Rhodes. Still, it seems to be well-known, she said.

"I find it's something the general public seems to have some knowledge of," she said. "We just don't see people asserting those rights to that extent through litigation."

The spat between the Przybylos and the Wallings is something law students often learn about but never get to experience.

"It's one of those things that's more fun to think about and talk about in law school classes

Please see **SURVEYING**, Back Page



# Surveying the only way to be safe

## ◆ SURVEYING

*Continued from Page A1*

than to actually do in the real world, but it does happen," said Joshua Stein, chairman of the New York State Bar Association's Real Property Law section.

### Whose land is it?

When the Przybylos bought their vacant lot on Butternut Hill Drive in 1989 and built their home in 1994, they didn't survey the land because they didn't take out a mortgage, their attorney didn't advise it and, at the time, the town didn't require it, Denise said.

In 2003, the Przybylos and Walling began to fight over things like barking dogs and bright lights, disputes that landed the neighbors in Town Court.

As a result of the disputes, the Przybylos decided to plant a row of large trees along their property line to try to block one house from the other.

In order to plant the trees, a survey had to be conducted. That survey revealed a 5,800-square-foot pie slice of land on the Przybylos' property — land they did not know belonged to them, and land Walling had been mowing and maintaining for more than a decade, also unaware it didn't belong to him.

Walling said he had mowed

his lawn since 1986 based on a piece of orange survey tape on a tree in the woods behind both properties.

"I never bothered to check the line," he said. "For the first several years that I mowed my lawn, their property was a hay field."

When the Przybylos tried to get that piece of land back, Walling claimed squatter's rights and won — even after an appeal that claimed Walling knew where the property line was because his land survey was conducted in 1986, and even though the Przybylos had been paying taxes on the land.

### They're not alone

John Powers of Brant Lake went through a similar situation: He recently lost a buyer for his camp because of his neighbors' adverse possession claim.

Like the Przybylos, Powers had also never conducted a survey on his property. The potential buyer, however, did — and found his neighbor had built a carport and driveway on the northeast side of the land.

Though he asked his neighbor to cooperate, the neighbor realized that legally, he didn't have to, Powers said. Now, Powers' lawyer said he must relinquish the land to his neighbor to clear title on the property.

Powers said he will not pursue litigation and has learned a good lesson in property rights.

"Everybody's worried about eminent domain," Powers said. "You can lose your land other ways."

The Przybylos, however, said they are taking their matter to the state Court of Appeals because they want a final ruling for consistency's sake.

While numerous cases uphold the court's decision in Walling's favor, some do not, they said.

"I feel that's my land. I paid for it," Denise said. "Was I wrong to not get a survey? Absolutely. But I didn't know. He planted a couple of seedlings and he mowed my lawn — maybe I should say 'thank you.' If it's mine on my deed, I don't care what's been done on my land. It's not yours."

Walling, who worked at the state Appellate Division for 14 years, said the Przybylos have no case. It's not about the adverse possessor's rights to the property, he said — it's about the other property owner's failure to take action.

"Nobody likes something of theirs being taken away," he said. "It is the sort of thing that doesn't seem right. But it is the law."

### An 'outdated' law

Unless a future landmark case outlaws adverse possession, property owners should stay vigilant and try to stay on good terms with their neighbors, Stein said.

"If you asked me to create a perfect world, would adverse possession be a part of it? I doubt it," he said. "It's a law that's outdated and creates these disputes. Most of the adverse possessions I see involve these very petty and emotional disputes between neighbors."

"But it's an established doctrine, and people rely on it, and property owners ought to be aware of it and conduct themselves accordingly."

That means surveys should be a part of every land purchase.

"Homeowners should get a survey, no matter what," he said. "It should be a requirement for any reasonable property buyer."

**COOPER'S CAVE**  
SALE COMPANY, LTD.  
**Raspberry Wheat**  
**is Back!**  
Limited Supply!  
22 oz. & 64 oz.  
Dix & Sagamore - Just off Rt. 9L  
On The Warren Co. Bike Trail  
Glens Falls, N.Y. 792-0007  
www.cooperscave.com  
10-9 Mon-Sat 12-5 Sun.

**132 Glen Bistro**  
**Serving pasta,**  
**seafood, steak &**  
**chicken from 5pm**  
Downtown Glens Falls Ph. 743-9138 for reservations

**THE YOGA NOOK**  
**NEW SESSION**  
NOV 4TH 5PM-6PM

With each window or window treatment