



**TOWN OF PEMBROKE  
ZONING BOARD OF APPEALS  
Minutes for the regular meeting held on June 19, 2013**

**ATTENDANCE:**

- Chairman- Nathan Witkowski
- Terrance Daniels – Vice Chairman: *Absent*
- David Sabato
- Richard Doktor
- Ronald Kasinski
- Diane Denton-ZBA Secretary

**PUBLIC PRESENT: Yes**

**MEETING called to order at 7:30 pm.**

**Corrections to minutes**

**Four corrections offered by David Sabato, all under the notes for the Jeffrey Humel hearing:**

- Omit comments made by neighbors not relevant to the appeal in question or about concerns that are not within the jurisdiction of the Zoning Board of Appeals.
- Public Participation: Omit ‘Jeffrey Humel was not present’, as he wasn’t required to be present, and add ‘No representation from the Town of Pembroke was present.’
- Omit statement by a member of the public that the break room was never used as living quarters.
- Omit note “Mr. Auerbach commented that there are other concerns and that citations should be issued”, as these concerns and citations are not within the jurisdiction of the Zoning Board of Appeals.

**A Motion to Approve** the Minutes for the May 15, 2013 Zoning Board Meeting **with corrections** was made by David Sabato, second to motion made by Ronald Kasinski.

**Voice Vote—ALL AYES—MOTION PASSED.**

**PUBLIC HEARING  
(On hold from April 17, 2013)**

**Zachary Cerasani**

8265 Marble Rd., Town of Pembroke

(Tax Map #14.-2-2; Zoning District: AG/R)

Request for **SIDE YARD AREA VARIANCE**

**PUBLIC HEARING** called to order at 7:35 pm. The Notice of Public Hearing was printed in the Batavia Daily News as well as posted on the Town’s Bulletin Board and letters sent for the April 17<sup>th</sup> and June 19<sup>th</sup> dates to adjoining property owners.

- Chairman Witkowski read from two letters received. One objected to the proposed building expansion if it moves closer to the property line. The other, from Terrance Daniels whose property borders Mr. Cerasani’s on the north side, made the following points:
  - There are no other buildings in the neighborhood positioned so close to the property line.

- The size of the proposed building is significantly larger than the residence and would be out of proportion with such a small lot.
  - There is already a drainage issue in the area proposed for the building and moving it closer to the property line would exacerbate this.
  - The closer to the property line the building is, the more noise would be a problem for the Daniels.
  - The existing building is currently non-conforming, so requesting a move closer to the property line would significantly increase its nonconformity.
  - The Special Use Permit for a Home Occupation that Mr. Cerasani received from the Planning Board states that no alteration to the exterior of the principal dwelling and/or accessory building be made which changes its residential character.
  - Mr. Daniels said that he is more inclined to be ok with Mr. Cerasani's revised plan of scaling down the building to something like 28' x 32', but still would not be happy if it further encroaches on the property line. The other important aspect to Mr. Daniel's acceptance of the smaller building is that it is constructed as a single story building with conventional wood frame and building siding.
- Two members of the public who were present expressed the following concerns:
    - The future use of the property if the Cerasanis moved.
    - Consistency of the land use plan per the Zoning Code.
    - Drainage and flooding issues.
    - Concern for fire safety considering the close proximity of the larger building to the Daniels' home and also to Cerasani's.
    - Would such a large building in the area affect land values? The rural character of the area is not only important to current residents but also an attraction to future residents.
    - If Mr. Cerasani's business grew, there might be some impact on traffic congestion as it already seems a busy-enough road.
    - Impact on setting a future precedence for granting variances.
    - The space between the current building and the property line is closer than it appears.

**PUBLIC PARTICIPATION**—Members of the public were present.

**Motion to Close the Public Hearing** made by Richard Doktor and seconded by David Sabato.

**Voice Vote:** All Ayes—motion passed.

**The Public Hearing Closed at 7:47pm**

- Mr. Cerasani wants to modify the current structure. He has reduced the size since his original application and addressed some of the public comments and concerns:
  - He wants to enlarge the building enough to house his wife's and his vehicles, as well as a lawn tractor, which would actually tidy up the appearance of the area.
  - As far as property values, the proposed building would be much nicer looking than the current one, and fit in better with the residential nature of the neighborhood. The new structure would have a more traditional roofline, siding, gutters, and conventional garage doors.
  - The 5 ft. walk between the house and the garage would be reduced by a few feet, but he is not prepared to tie the two buildings together at this time.
  - Regarding drainage, he considers that he is the one who is at a disadvantage as the neighboring property belonging to Mr. Daniels is higher and any additional runoff would affect his property more than anyone else's.

- Chairman Witkowski stated the issue for the Zoning Board of Appeals regarding Mr. Cerasani's proposed building expansion is its size side to side. There is plenty of room front to back for the building to increase in depth and keep in compliance.
- David Sabato reminded the board that they shouldn't increase a non-compliance unless there is a compelling reason to do so.
- The board and Mr. Cerasani discussed deepening the structure while keeping it at the current width which would retain current the 9 ½ ft. side yard variance.
- The board also discussed that the building should be kept in character with the neighborhood, and that the Zoning Board of Appeals could put a restriction on the variance that gutters be tied into drainage.

On **MOTION** made by Chairman Witkowski and seconded by David Sabato, **to approve a 26 ft. wide accessory building and a 9 ½ ft. side yard variance. The construction must be consistent with the nature of the community with gutters tied into drain tile.**

**ROLL CALL VOTE:** Richard Doktor-Aye; Ronald Kasinski-Aye; David Sabato-Aye; Chairman Witkowski-Aye.

**ALL AYES—MOTION PASSED.**

**Zoning Board Decision: APPROVAL WITH RESTRICTION.**

**PUBLIC HEARING**  
**Dawn Kuras**  
**FRONT YARD AREA VARIANCE**  
 8236 N. Pembroke Rd., Town of Pembroke  
 (Tax Map #12.-1-44.111; Zoning District: AG/R)

**PUBLIC HEARING** called to order at 8:28pm. The Notice of Public Hearing was printed in the Batavia Daily News as well as posted on the Town's Bulletin Board. Chairman Witkowski read the Public Notice.

- One neighbor letter was received approving of Ms. Kuras' plans.

**PUBLIC PARTICIPATION**—No members of the public were present.

**Motion to Close the Public Hearing** made by Chairman Witkowski and seconded by Terrance Daniels.

**Voice Vote:** All Ayes—motion passed.

**The Public Hearing Closed at 8:30pm**

- Ms. Kuras wants to replace her small brick porch with a deck with roof that will run the entire front of house.
- Per Zoning Schedule A the porch should be 50 ft. from row. The current porch is nonconforming.
- The new porch will have the same width as the current one and retain its current 14.36 ft. from right away; therefore, it will not change the nonconformity.

**MOTION** made by David Sabato and seconded by Ronald Kasinski **to approve a 35.64 ft. front yard variance to expand the length of existing porch.**

**ROLL CALL VOTE:** Richard Doktor-Aye; Ronald Kasinski-Aye; David Sabato-Aye; Chairman Witkowski-Aye.

**ALL AYES—MOTION PASSED.**

**Zoning Board Decision: APPROVAL OF FRONT YARD AREA VARIANCE**

**New Business:** None

**Discussion:** None

**Old Business:** None

A **MOTION** to close the meeting was made by David Sabato, seconded by Chairman Witkowski.

Voice Vote—ALL AYES

**MOTION PASSED**

Meeting adjourned at 8:51pm.

Respectfully Submitted,

Diane Denton-ZBA Secretary

Nathan Witkowski-ZBA Chairman

*These minutes were approved by the Zoning Board of Appeals August 21, 2013*