



**TOWN OF PEMBROKE  
ZONING BOARD OF APPEALS  
Minutes for the regular meeting held on August 21, 2013**

**ATTENDANCE:**

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

**PUBLIC PRESENT: Yes**

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

**A Motion to Approve** the Minutes for the June 19, 2013 Zoning Board Meeting was made by Richard Doktor; second to motion made by John Sabato.

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

**PUBLIC HEARING**

**Joann Dibble**

8151 Evergreen Dr., Town of Pembroke  
(Tax Map #12.-1-77; Zoning District: AG/R)

Request for **AREA VARIANCE**

**PUBLIC HEARING** called to order at 7:31pm. 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 to adjoining property owners.

- Chairman Witkowski read from the public notice and a letter from the owner/developer of Evergreen Acres Subdivision regarding proposed restricted covenants, which do not allow fencing. Another letter received from a neighboring property had no objection as long as the proposed fence doesn't impair the line of sight of the intersection of Evergreen Dr. and Indian Falls Rd.
- The proposed restrictive covenants are not part of Town laws.
- Joann Dibble was present and said that she would like the fence to offer privacy for her family. She offered a picture of the line of sight turning out of Evergreen Dr. The proposed fence would be well back behind a telephone pole and more than 6ft. tall tree and would not make any difference to the current line of sight.
- Town of Pembroke Zoning Law 310:
  - #2: any fencing is not to exceed 3 ft. when located within 20 ft. of the street right-of-way line.
  - #3: any fencing is not to exceed 8 ft. when located more than 20 ft. from the street right-of-way line.
- Ms. Dibble's proposed fence would be within 3 ft. of the right-of-way and she wants to make it 6 ft. high.

- The application required Genesee County Recommendation. The county disapproved the application, stating that the variance may pose significant impacts and that such a large variance could set a precedent for future applications.
- Members of the public who were present had no objections as long as the fence was in keeping with the quality of homes in the neighborhood.
- The board cannot make any determination on the covenants, but can determine on the basis of the Town of Pembroke's zoning laws.

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

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

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

**The Public Hearing Closed at 8:45pm**

On **MOTION** made by Terrance Daniel and seconded by Ronald Kasinski, **to grant a variance for Section 310 A #2 to allow a fence not to exceed 6 ft. high located 3 ft. from the street right-of-way, on the basis that the fence would not impact the safety, health or character of the neighborhood.**

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

**ALL AYES—MOTION PASSED.**

**Zoning Board Decision: APPROVAL.**

**INFORMATIONAL**

**Ron and Betty Miller**

**AREA VARIANCE for Road Frontage**

**Re: Land Separation and Merger**

9060 Allegheny Rd., Town of Pembroke

(Tax Map #23.-1-1.111; Zoning District: AG/R)

- Decision on land separation and merger was postponed by the Planning Board in order to have the Zoning Board of Appeals determine if an area variance was necessary.
- The Planning Board didn't have an issue with the separation.
- Technically not enough road frontage on Lover's Lane Rd. as the separation is proposed. Per Schedule A, non-residential use requires a minimum of 250 ft. frontage.
- Chairman Witkowski noted that because there is access to the property, the board would not be creating a non-conforming, land-locked lot.
- The board discussed whether the Zoning Board of Appeals needed to act on the variance.
- The board determined a variance wouldn't need to go to County, as Lover's Lane Rd. is not a county road.
- The application for an area variance does require a public hearing which will be scheduled for the Zoning Board of Appeals board meet on September 18<sup>th</sup>. Then, the Planning Board can rule on the separation and merger at their meeting on September 25<sup>th</sup>.

**New Business:** None

**Discussion:** None

**Old Business:** None

A **MOTION** to close the meeting was made by Terrance Daniel, seconded by David Sabato.

Voice Vote—ALL AYES

**MOTION PASSED**

Meeting adjourned at 8:30pm.

Respectfully Submitted,

Diane Denton-ZBA Secretary

Nathan Witkowski-ZBA Chairman

*These minutes were approved by the Zoning Board of Appeals 9/18/13 and are final.*