



**TOWN OF PEMBROKE
ZONING BOARD OF APPEALS
Minutes for the regular meeting held on September 18, 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.

The Vice Chairman, Terrance Daniels, opened and ran the meeting until Chairman Witkowski arrived.

Corrections to the Minutes for the August 21, 2013 Zoning Board of Appeals Meeting made by Ronald Kasinski and Terrance Daniels as follows:

- Page 2: Motion to grant variance to Joann Dibble seconded by Ronald—corrected from Richard—Kasinski.
- Page 2: Under Informational for Ron and Betty Miller, delete 5th bullet point.
- Page 2: Under Informational for Ron and Betty Miller, in 7th bullet point, change Cohocton to Lovers Lane Rd.

A Motion to Approve the Minutes with corrections was made by Richard Doktor; second to motion made by John Sabato.

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

PUBLIC HEARING

Paul and Betty Miller

9060 Allegheny Rd., Town of Pembroke

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

Request for **AREA VARIANCE FOR ROAD FRONTAGE**

PUBLIC HEARING called to order at 7:32pm. The Notice of Public Hearing ran in the Batavia Daily News August 31, 2013, was posted on the Town's Bulletin Board and letters were sent to adjoining property owners.

- Paul and Betty Miller were present. They wish to separate 14 acres from 23.-1-1.111 to merge with 12.1.1.12 and 12.1.1.112, and separate into another two properties of 47 acres and 30 acres. The 47 acre property would have only 35 feet of frontage and would need a variance.
- Their son owns 12.1.1.12 and 12.1.1.112.
- Right of way is off the end of Lovers Lane Rd., which is currently a dead end.

- One letter was received disapproving of the proposed land separation with no road frontage except for access through another person's property.
- The proposed separation and merger would not change the current frontage off Cohocton Rd.
- Mr. Miller said the 47 acre parcel would be used for farming.
- Mr. Daniels noted that Schedule A of the Zoning Law states that 250 feet of frontage is required for non-residential use. He thought this could be accomplished by the 35 feet of frontage being maintained so emergency vehicles would have access to the property.
- Chairman Witkowski said that a stipulation could be added to an approval of the variance, stating that the parcel could not be a building lot. If, at some time in the future, the Millers' son or any subsequent owner wishes to put a house on the property, that owner would have to come back and work with the Town to get the road extended, make a private road or somehow bring the frontage into compliance.

PUBLIC PARTICIPATION—No members of the public were present.

Motion to Close the Public Hearing made by Richard Doktor and seconded by Chairman Witkowski.

Voice Vote: All Ayes—motion passed.

The Public Hearing Closed at 7:45pm

On **MOTION** made by Chairman Witkowski and seconded by Ronald Kasinski: **to grant a variance for 165 feet of road frontage, as long as 35 x 250 feet is maintained for access to emergency vehicles.**

RESTRICTION: The parcel of land is to be used for farming purposes only, and not as a building lot.

ROLL CALL VOTE: Richard Doktor-Aye; Ronald Kasinski-Aye; Chairman Witkowski-Aye; Terrance Daniels-Aye; (David Sabato arrived late and not yet present at the time of this vote).

FOUR AYES—MOTION PASSED.

Zoning Board Decision: APPROVAL WITH RESTRICTION.

PUBLIC HEARING

Frederick Hensel

8921 Allegheny Rd., Town of Pembroke

(Tax Map #19.-1-39; Zoning District: LC)

Request for **SIDE SET AREA VARIANCE**

Required Referral to County

PUBLIC HEARING called to order at 8:55pm. The Notice of Public Hearing ran in the Batavia Daily News as well, was posted on the Town's Bulletin Board and letters were sent to adjoining property owners.

- Mr. Hensel was present. He is requesting a 15 ft. side set to construct a shed in order to keep it out of the leach field. This would require a 10 ft. variance.
- Genesee County Planning Board approved, stating that the proposed storage shed should not pose significant impacts, and that neighboring properties exhibit similar side yard setbacks for accessory structures.
- No letters or other correspondence was received.
- Chairman Witkowski talked about the Town's proposed changes to the Zoning Law that would increase 140 sq. ft. to 256 sq. ft.; these have not yet been approved.

PUBLIC PARTICIPATION—No members of the public were present.

Motion to Close the Public Hearing made by Terrance Daniels and seconded by Richard Doktor.
Voice Vote: All Ayes—motion passed.

The Public Hearing Closed at 8:00pm

On **MOTION** made by Richard Doktor and seconded by Ronald Kasinski: **to grant a 10 foot side yard variance for a 12 ft. x 18 ft. shed.**

ROLL CALL VOTE: Richard Doktor-Aye; Ronald Kasinski-Aye; Chairman Witkowski-Aye; Terrance Daniels-Aye; David Sabato-abstained (he arrived late, so wasn't here for discussion).
FOUR AYES, ONE ABSTENTION—MOTION PASSED.

Zoning Board Decision: APPROVAL.

PUBLIC HEARING
Genesee Gateway Local Development Corporation & Yancey's Fancy
Rt. 5 and Rt. 77, Town of Pembroke
(Tax Map #19.-1-73.1 & 19.-1-74; Zoning District: Interchange)
Request for **AREA VARIANCES**
Required Referral to County

PUBLIC HEARING called to order at 8:05pm. The Notice of Public Hearing ran in the Batavia Daily News on September 11 and September 12, 2013, was posted on the Town's Bulletin Board and letters were sent to adjoining property owners.

- Jennifer Dougherty, counsel from Phillips Lytle; Mark Masse, Senior Vice President of the GGLDC; and Andrew Koso, engineer from Clark Patterson Lee, were present.
- The applicant is requesting the following variances:
 - 1) Building height: maximum allowed: 35 ft.; Yancey's Fancy's plan proposes 55 ft.
 - 2) Lot coverage: maximum allowed: 35%; Yancey's Fancy's plan proposes 49%.
 - 3) Front yard setback (Rt. 5): minimum required: 75 ft.; proposed: 50 ft.
 - 4) Front yard setback (Rt. 77): minimum required: 125 ft.; proposed: 50 ft.
- Genesee County Planning Board approved with the following modification in regards to the Town of Pembroke Zoning Board of Appeals: the applicant obtains an area variance or amends the site plan for the cheese manufacturing facility in order to comply with the Town's parking space size requirements (10 ft. x 20 ft.). Yancey's Fancy's plan proposes 164 9 ft. x 20 ft. parking spaces.
- The GGLDC is requesting that the town rezoned all 55 acres of the proposed Industrial Park (which is presently Interchange, Commercial and Agricultural/Residential) to Interchange. Yancey's Fancy proposal is for parcels that are currently Interchange.
- Variances would be for the GGLDC so Yancey's Fancy could come to the site.
- The site is severely limited by wetlands and buffers. The proposed plan would work around these. Because of them the developable area is small. The GGLDC is looking to maximize the space by obtaining variances.
- There would be no access to the Industrial Park off Rt. 77.
- There were a couple of comments made by members of the public present. Dan Mast, who lives across from the proposed Industrial Park on Rt. 77 along with the owner of a farm to the west of the proposed Industrial Park didn't have a problem with it.

- Shellye Dale-Hall, Town of the Pembroke Zoning Officer, and Thomas Schneider, chairman of the Town of Pembroke Planning Board, reviewed the GGLDC proposal. Chairman Schneider hand delivered the referral to County.
- ZBA Chairman Witkowski reiterated and the board discussed the requested variances as follows:
 - 1) Building Height: the code limit it 35 ft.; a 20 ft. variance is needed for Yancey’s Fancy’s proposed building height of 55 ft. which would include a 1st floor for production and 2nd floor for office space.
 - 2) Lot coverage: code limit is 35%; Yancey’s Fancy’s proposal is for 49%. Andrew Koso explained that they have carved out areas for storm water drainage, green areas, possible pond for treatment of water to go back into wetlands, and some other pond features. Right now most of the drainage on the site could be done with gravity, as it slopes to the south.
 - 3) Front yard setback from Rt. 5: code minimum is 75 ft. from service road; Yancey’s Fancy’s proposal is for 50 ft. from service road. Mark Masse said that improvements would be made in the spring on the entrance off Rt. 5, widening it and adding turning lanes. The current setback for Turf Services is about 50 ft. back from Rt. 5.
 - 4) Front yard setback from Rt. 77: code minimum 125ft.; the GGLDC’s concept proposal would be for 50 ft. In discussions, the DOT said that they would not allow the proposed 35,000 sq. ft. building there to have access from Rt. 77.

Two more potential variances were discussed:

- 5) Setback off Brick House Corners Dr., which is a Town road: code minimum is 75 ft. because it’s actually a front; proposal would be 30 ft.
 - 6) Yancey’s Fancy’s proposed parking lot: Code requires parking spaces to be 10 ft. x 20 ft.; proposed would be 9 ft. x 20 ft., which would give them 164 spaces.
- Tom Schneider noted the GGLDC did an extensive SEQR for the entire site, so the Planning Board doesn’t have to concern itself with it.

PUBLIC PARTICIPATION—Members of the public were present.

Motion to Close the Public Hearing made Terrance Daniels and seconded by Richard Doktor.

Voice Vote: All Ayes—motion passed.

The Public Hearing Closed at 8:57pm

On **MOTION** made by Chairman Witkowski and seconded by David Sabato: **to grant the following variances that meet with County’s recommendations and modifications, and will not create any negative impact on the surrounding area:**

- 1) **20 ft. Height Variance for Yancey’s Fancy.**
- 2) **14% lot coverage variance for Yancey’s Fancy.**
- 3) **25 ft. front yard setback variance off Rt. 5 for a potential building no larger than 31,000 sq. ft.**
- 4) **75 ft. front yard setback variance off Rt. 77 for proposed 35,000 sq. ft. building (with no access to Rt. 77).**
- 5) **20 ft. front yard set back variance from interior service road.**
- 6) **Area variance of 1 ft. for parking spaces in the Yancey’s Fancy’s proposal.**

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

ALL AYES—MOTION PASSED.

Zoning Board Decision: APPROVAL.

New Business: None

Discussion: None

Old Business: None

A **MOTION** to close the meeting was made by David Sabato, seconded by Richard Doktor.

Voice Vote—ALL AYES

MOTION PASSED

Meeting adjourned at 9:05pm.

Respectfully Submitted,
Diane Denton-ZBA Secretary
Nathan Witkowski-ZBA Chairman

These minutes were approved by the Zoning Board of Appeals 11/20/13 and are final.