



## THE TOWN OF PEMBROKE PLANNING BOARD

1145 Main Rd., Pembroke, NY 14036

Minutes for the regular meeting held on October 29, 2014

### ATTENDANCE:

- Chairman-Thomas Schneider
- Vice Chairman-Michael Herec
- Michael Bakos
- Linda Rindell
- Richard Kutter
- David Knupfer
- Diane Denton-Acting Recording Secretary

### PUBLIC PRESENT: Yes

MEETING called to order at 7:28pm.

### Public Hearing

#### Dawn Kuras

8236 N. Pembroke Rd., Town of Pembroke

TM# 12.-1-44.111

Zoning District MDR

Request for a **SPECIAL USE PERMIT for Home Occupation**

*Required Genesee Country Recommendation*

- Greg and Dawn Kuras were present. They are requesting a Special Use Permit for a Home Occupation to operate an Automobile Brokerage.
- This is the second application, the first made in 2009 for Motor Vehicle Sales, a use not allowed in the MDR district. The Home Occupation definition states that repairs on motor vehicles are not allowed, but is silent on sales.
- The Kurases assured the board that they won't be doing repairs on the motor vehicles they sell.
- Mr. Herec commented that the public's concern would probably be due to any possible change in the outward appearance of the property.
- County recommended disapproval based on Attorney Mark Boylan's letter in 2009 stating that "Under the current zoning law in the Town of Pembroke, this would not seem to qualify, especially in light of the fact that motor vehicle repair is specifically EXCLUDED from the definition of a home occupation. It would follow logically that motor vehicle sales, a similar use and intensity, would also be excluded". The application at that time was for motor vehicle sales including doing repairs. County didn't want to consider the current application as different from that previous one.

- Ms. Kuras stated that they would not be running an automobile dealership. It would be a part-time business and 90% of the time potential customers would come to them with a description of what they're looking for. Mr. Kuras would find the vehicle, do the paperwork and make the sale. Once in a while the intended customer might decide not to purchase the car they obtain; in that case they might put it on their property for sale. They don't foresee selling more than 10 vehicles in a year. They deal more with collectable than average cars.
- Ms. Vaughn lives down the road and over the years has never seen anything about the Kuras' property not in character with the neighborhood.
- Chairman Schneider talked to Mark Boylan about the application. On page 10 of the Zoning Regulations, Home Occupation lists 40 different things that are allowed and most similar to this application would be insurance and real estate broker.
- The Kurases used to have a car lot in Batavia and most of their customers would come from the cliental they had then. They would do most of their business on the internet and through eBay. They don't have a business website.
- Mr. Kutter commented that it looks like the barn would be deep enough to have two cars in it.
- The Kurases said they might have one car on display at the most; at times, they might not have any. NYS allows a resident to have two cars on display for sale, and the Town of Pembroke allows a resident to have two unregistered vehicles.
- Mr. Kutter suggested the stipulation that they make no major or minor repairs at the property.
- Mr. Kuras stated that he doesn't have an inspection license or intend to get one, and would outsource any repairs.
- Chairman Schneider read from letters received. Barbara Krizen expressed her concern that the neighborhood was not the proper place for the proposed business because autos would be on display and customers would disturb the quiet of the neighborhood. Another neighbor, Alvin Muntz, had no issue with the Kuras' application.
- Chairman Schneider read from County's disapproval that suggested the proposed automobile sales business may pose significant county-wide or inter-community impacts. The Zoning Review Committee met last week and discussed County's decision. Mark Boylan suggested that one option would be to send it to the Zoning Board of Appeals for an interpretation. ZBA Chairman, Nate Witkowski, didn't think that was necessary. Chairman Schneider feels it is in the Planning Board's jurisdiction to define.

## **PUBLIC PARTICIPATION—No**

On **MOTION** made by Ms. Rindell, and seconded by Mr. Herec, the Public Hearing was CLOSED at 7:45pm.

**Voice Vote: ALL AYES—MOTION CARRIED.**

- In order to overturn the County's decision, the board needs a majority plus one.
- The Kurases don't intend to have any signage, except for what the DMV require, and will have no additional lighting. Nothing will change on how the property looks, except for the DMV signage.
- Ms. Rindell asked that they discuss stipulations about the number of vehicles on property and display at any one time, repairs, signage, and hours.

On **MOTION** made by Mr. Kutter and seconded by Mr. Herec to make a **negative declaration on the SEQR short form.**

**ROLL CALL VOTE** Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Herec-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.  
**ALL AYES-MOTION CARRIED**

On **MOTION** made by Chairman Schneider and seconded by Mr. Knupfer to **APPROVE the Special Use Permit for Home Occupation with the following stipulations:**

- **No more than two vehicles on the premises for resale and no more than one vehicle on display in front yard.**
- **No repairs on resale vehicles and no repairs for hire.**
- **No signs other than required NYS dealer signage. (If, at a later date, they want a business sign they must bring that request to the board)**
- **Operation limited to reasonable daylight hours.**

**ROLL CALL VOTE** Mr. Bakos-Aye; Ms. Rindell-Aye; Mr. Kutter-Aye; Mr. Herec-Aye; Ms. Vaughn-Aye; Mr. Knupfer-Aye; Mr. Schneider-Aye.  
**ALL AYES-MOTION CARRIED**

**A MOTION** to adjourn the meeting was made by Mr. Bakos, and seconded by Ms. Rindell.

**ALL AYES—MOTION CARRIED**  
Meeting Closed at 8:15pm.

Respectfully Submitted,  
Diane M. Denton,  
Acting Recording Secretary  
Thomas Schneider Chairman

*These minutes were approved by the Town of Pembroke Planning Board 12/30/14.*