



**TOWN OF PEMBROKE**  
**ZONING BOARD OF APPEALS**  
**Minutes for the regular meeting held on June 21, 2017**

**ATTENDANCE:**

- Terrance Daniel — Chairman
- Donald Dylag— Vice Chairman
- John Kadziolka
- Donald Showler
- Erika Gabbey
- Thomas Marshall - Alternate
- Diane Denton — ZBA Secretary

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

**A Motion to Approve** the Minutes from March 22, 2017 was made by Ms. Gabbey; second to motion made by Mr. Kadziolka.

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

**Preliminary**  
**Area Variance/Louis Moretti**  
8531 Indian Falls Rd., Town of Pembroke  
Tax Map #17.-1-68; Zoning District: AG/RES

- A formal application hasn't been submitted yet. The board cannot make a binding decision until there's a formal public hearing.
- Mr. Moretti proposes to separate and sell 25 ft. x 300 ft. from TM# 17.-1-68 to be merged with parcel behind, TM# 17.-1-63. Such a separation would create a non-conforming lot.
- Mr. Williams, lawyer representing Mr. Moretti, was present. He made the point that the reduction of the lot to 175 ft. is more in keeping with neighboring parcels, some of which are 100/125 ft. Therefore, the proposed land separation would not be changing the neighborhood.
- Chairman Daniel mentioned that Mr. Barsuk, owner of TM# 17.-1-63, has not expressed interest to the board in purchasing the proposed separated strip of land off of Mr. Moretti's. Mr. Williams said he is representing both Mr. Moretti and Mr. Barsuk who would rather have ownership than an easement for better access to his land than he currently has off of Main Rd. through wetland.
- Chairman Daniel wondered why Mr. Moretti didn't create an easement. He noted Section 304 A 1 of Town Zoning Law, which states no lot may be reduced to a non-conforming size without a variance. The board has to consider five points in order to decide whether to grant a variance or not: 1) Would it create an undesirable change in the neighborhood? Chairman Daniel didn't think it would, because, as Mr. Williams pointed out, many of the neighboring lots are even smaller. 2) Could the benefits sought by the applicant be achieved by a feasible method other than a variance?

Chairman Daniel felt an easement was the obvious choice and this point could weigh heavily towards a negative ruling. 3) Is the variance substantial? Chairman Daniel thought each board member would have to decide whether making the conforming lot into a non-conforming one was substantial or not. 4) Would it have an adverse effect on the physical and/environmental neighboring district? Chairman Daniel was concerned that this was part of the AG/RES district and for the Board to grant a variance in AG/RES is a concern. 5) Is the alleged difficulty self-created? Chairman Daniel thinks it is, as Mr. Barsuk has had the property and been using the driveway off Main Rd. for twenty years, including during the wettest times of the year.

- Mr. Dylag wondered why all-of-a sudden Mr. Barsuk needed a new way to access his land. Mr. Williams said access off of Indian Falls Rd. was much more feasible for him.
- Chairman Daniel told Mr. Williams that if Mr. Moretti decided to go ahead with the application for a variance, he would need to formerly file it with Zoning. Then it would go to County for their recommendation before coming to the ZBA for a Public Hearing, review, and determination.
- Mr. Williams stated he was satisfied with the information the board had given him.

### **Preliminary**

#### **Area Variance/Ray and Pat Pelton**

1795 Phelps Rd., Town of Pembroke  
Tax Map #11.-1-15; Zoning District: AG

- A formal application hasn't been submitted yet. The board cannot make a binding decision until there's a formal public hearing.
- Ray and Pat Pelton are considering requesting an area variance for an addition to an existing structure to the rear of their property.
- The existing shed is currently only 6.6 ft. off the rear property line. In AG district it should be 50 ft.
- The Peltons wish to demolish the existing shed and rebuild it on the same foundation, which is a floating slab. He proposes building a new shed that is 18.3 ft. x 32.4, which includes an additional 10ft. on each side. It would also be higher than the current structure.
- His property is surrounded by land belonging to his mother, which is used for farming.
- Chairman Daniel noted that, in essence, the Peltons are requesting to create a non-conforming structure on a current non-conforming lot.
- Tom Schneider said the placement of the current shed was done before there were Zoning regulations. It wouldn't be necessary for the Peltons to seek a variance if they put same size building on the existing foundation.
- The Peltons don't expect any resistance from neighbors.
- Chairman Daniel said Mr. Pelton has to apply for variance for a whole new structure. He thought the odds for the board granting the variance were pretty good. Because Phelps Rd. isn't a County road, the application doesn't have to be submitted to County, but it does need a Public Hearing.

### **Informational**

#### **Area Variance/Lisa Smith**

610 Knapp Rd., Town of Pembroke

Tax Map #14.-1-27.12; Zoning District: AG/RES

- The parcel Ms. Smith would like to build on has 110 ft. of road frontage, but the width of the lot is only 60 ft.
- Tom Schneider checked file and pulled minutes. Twenty years ago it was designated as a building lot, as were three other parcels around it. The question is: was that designation only good for one year because building never happened? He will check with the Town lawyer.
- Whether a variance is needed hinges on whether or not it is a legal building lot. If it's not, it will have to go to ZBA.

**New Business: None**

**Old Business: None**

**A MOTION** to close the meeting was made by Mr. Showler, seconded by Mr. Dylag

Voice Vote—ALL AYES

**MOTION PASSED**

Meeting adjourned at 8:15pm.

Respectfully Submitted,

Diane Denton-ZBA Secretary

Terrance Daniel-ZBA Chairman

*These minutes were approved by the Zoning Board of Appeals July 19, 2017*