



TOWN OF PEMBROKE
ZONING BOARD OF APPEALS
Minutes for the regular meeting held on July 19, 2017

ATTENDANCE:

- Donald Dylag— Vice Chairman (ran meeting in Mr. Daniels absence)
- John Kadziolka
- Donald Showler
- Thomas Marshall – Alternate (sat on board in Ms. Gabbey’s absence)
- Diane Denton — ZBA Secretary

MEETING called to order at 7:30 pm.

A Motion to Approve the Minutes from June 21, 2017 was made by Mr. Dylag; second to motion made by Mr. Kadziolka.

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

Public Hearing
Area Variance/Louis Moretti
8531 Indian Falls Rd., Town of Pembroke
Tax Map #17.-1-68; Zoning District: AG/RES
Required referral to County

PUBLIC HEARING was opened at 7:34pm. The Notice of Public Hearing ran in the Batavia Daily News July 14, 2017, was posted on the Town’s Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Attorney Thomas Williams was present on behalf of Mr. Moretti who wishes to sell a 25 ft. by 300 ft. strip off his land to be merged with adjacent property owned by David Barsuk, in order to create access back to Mr. Barsuk’s land.
- County approved given that neighboring properties exhibit similar or smaller lot dimensions.
- Mr. Moretti’s neighbor to the north Noreen Platten was present with her daughter and expressed concern with where the proposed access/driveway would be located. A camper belonging to Mrs. Platten and her husband is usually parked near the hedgerow on the north side of the strip of land in question. They signed an agreement with Mr. Moretti that gave them use of that 3 ft. of land for life. (At present they are trying to sell the camper. If and when it is sold, their use of the 3 ft. would no longer be an issue).
- Mr. Williams said the access granted to Mr. and Mrs. Platten can’t be taken away while they’re still living. He stated that Mr. Moretti appreciates all of his neighbors and wouldn’t wish to inconvenience them in any way. He would have to honor the agreement with the Plattens and would probably be alright with leaving the hedgerow or taking it out.

- Mrs. Platten wondered what the proposed driveway would be made of, concerned there could be damage to the camper if it was stone.
- Mr. Williams said it could be asphalt.
- Mrs. Platten wondered why Mr. Barsuk wanted a driveway off of Indian Falls Rd. Mr. Williams said Mr. Barsuk needs higher and drier access to his land. Access from Main Rd. is very swampy. At some point Mr. Barsuk might wish to build another house further back from Main Rd.
- Mr. Barsuk would be buying 25 ft., but could only use 20 ft.
- Mrs. Platten wondered if she could get a copy of the meeting minutes. She was told she could file a FOIL request for them through the Town Clerk.
- Mr. Kadziolka felt an easement was a better alternative for Mr. Barsuk to gain access the land in question.
- Mr. Williams said Mr. Moretti would have no use for an easement and would rather sell the property.
- Mr. Schneider mentioned that Zoning Law doesn't allow Mr. Barsuk to build a second house on his property. Mr. Williams thought Mr. Barsuk might want to tear down his current house on Rt.5 and rebuild further back.
- Mr. Kadziolka wondered if there are designated wetlands on Mr. Barsuk's property. Mr. Schneider said there wasn't.
- Mr. Dylag went back to the last meeting and the five points the ZBA would have to consider: 1) Would it create an undesirable change in the neighborhood? 2) Could the benefits sought by the applicant be achieved by a feasible method other than a variance? 3) Is the variance substantial? 4) Would it have an adverse effect on the physical and/environmental neighboring district? 5) Is the alleged difficulty self-created?
- Mr. Williams wondered if it would be alright for him to come back to next ZBA meeting in order to answer the board's questions more fully. Mr. Schneider noted that Mr. Moretti has 62 days from when the Public Hearing was open, or beyond that if all parties agreed.
- Mr. Williams made a formal request for the Public Hearing to be adjourned until next month. He said he would send a letter if he didn't have anything to add.

Public Present: Yes

Motion to leave the Public Hearing open until the next Zoning Board of Appeals meeting on August 16th at 7:30pm made by Mr. Showler and seconded by Mr. Marshall.

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

Public Hearing
Area Variance/Yancey's Fancy
 857 Main Rd., Town of Pembroke
 Tax Map #14.-2-24.21; Zoning District: Interchange
Required referral to County

PUBLIC HEARING was opened at 8:13pm. The Notice of Public Hearing ran in the Batavia Daily News July 14, 2017, was posted on the Town's Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- No one representing Yancey's was present as Mr. Schneider told them they didn't need to be there for variances.
- The construction of the Vat Room would encroach 11 ft. into front setbacks.
- Mr. Schneider said two of the additions probably wouldn't be done until next year. Yancey's will be adding a driveway, which will make the entire site safer.
- Mr. Schneider noted that the store already encroaches on setback, but he thought it best if they applied for the variance for the new structure.
- For the record, Tom Marshall excused himself from the discussion and determination as he works for Yancey's.
- County approved given the variance should pose no significant county-wide or inter-community impact.

Public Present: No

Motion to Close the Public Hearing @ 8:20pm made by Mr. Showler and seconded by Mr. Marshall.

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

On **MOTION** made by Mr. Kadziolka and seconded by Mr. Showler **to approve the 11 ft. setback variance for Vat room per County's recommendation.**

ROLL CALL VOTE: Mr. Kadziolka -Aye; Mr. Dylag-Aye; Mr. Showler-Aye; Mr. Marshall-Aye
ALL AYES-MOTION CARRIED

New Business: None

Old Business: None

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

Voice Vote—ALL AYES

MOTION PASSED

Meeting adjourned at 8:22pm.

Respectfully Submitted,

Diane Denton-ZBA Secretary

These minutes were approved by the Zoning Board of Appeals August 16, 2017