



**THE TOWN OF PEMBROKE
ZONING BOARD OF APPEALS**

1145 Main Rd., Pembroke, NY 14036

Minutes for the regular meeting held on November 21, 2018

ATTENDANCE:

- Don Dylag — Vice Chairman
- Erika Gabbey
- John Kadziolka
- Donald Showler
- Diane Denton, Recording Secretary
- Thomas Schneider, Zoning Enforcement Officer

PUBLIC PRESENT: Yes

MEETING called to order at 7:00pm.
Don Dylag led the “Pledge of Allegiance”.

Vice Chairman, Don Dylag, facilitated meeting in Chairman Terrance Daniel’s absence.

MOTION TO APPROVE the Minutes from October 24, 2018 made by Mr. Kadziolka;
Second to motion was made by Mr. Showler.

Voice Vote: ALL AYES—MOTION CARRIED.

Public Hearing (left open from 10/14/18)

Sign Variance for Convenience Store

Speedway/McBride Dale Clarion

Allegheny Rd., Town of Pembroke

Tax Map# 15.-1-22.2

Zoning District: Interchange

- John Wocher of McBride Dale Clarion and Scott Gross of the Construction Management Department of Speedway submitted revisions made per the ZBA’s request at the October meeting.
- The Highway pole mounted sign was reduced from 100 ft. to 60 ft., its area size reduced from 620 sq. ft. to 260 sq. ft.
- Other signage changes include the Goal Post sign near the driveway, reduced from 165 sq. ft. to 150 sq. ft., reader-board taken off the bottom. Also, the store will only have one sign at the front and one at the back, down one sign from original plan, and each canopy, instead of three, will have two signs.
- In total, the changes reduce the proposed signage 580 sq. ft. in area and 40 ft. in height. The applicant feels that is consistent with other truck facility signage in the area.

Public Present: Yes – representatives for applicant.

Motion to Close the Public Hearing @ 7:05pm made by Mr. Showler and seconded by Ms. Gabbey.

Voice Vote:

ALL (FOUR) AYES-MOTION CARRIED

On **MOTION** made by Mr. Showler and seconded by Mr. Kadziolka **to approve the area sign variance package as presented with County’s recommendations, as it is consistent with other truck stop signage in the area.**

ROLL CALL VOTE: Ms. Gabbey-Aye; Mr. Kadziolka-Aye; Mr. Dylag-Aye; Mr. Showler-Aye
Four (4) AYES; No NAYS—**MOTION CARRIED**

Public Hearing/Area Variance

Julie Robinson

9451 Ellinwood Rd., Town of Pembroke

Tax Map# 24.-1-104

Zoning District: AG/RES

PUBLIC HEARING was opened at 7:10pm. The Notice of Public Hearing ran in the Batavia Daily News November 14, 2018, was posted on the Town’s Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Vice Chairman Don Dylag read notice of posting in the Batavia Daily. No letters were received from neighboring properties.
- This property is on a town road and, therefore, did not have to be referred to County.
- Ms. Robinson was present. She wants to split and sell off a piece of her property containing a barn and pond. Because of the Land Separation as presented, the barn would be too close to the property line and require a 15 ft. side lot variance. The need for the variance is created by Ms. Robinson wanting to keep the driveway on the piece of the parcel with her house. She would have to give up most of the driveway to be in compliance.
- Because of a triangle parcel TM# 24.-1-103 cutting into the frontage of the parcel remaining after the proposed separation, the lot would become non-conforming. Ms. Robinson needs to own that parcel and merge with her own to meet the frontage requirements. The records show that Jeff Cole still owns it. She thought Mr. Cole was going to take care of the transfer of that parcel to her and will have to see why that hasn’t yet happened.
- It was suggested that, for next week’s Planning Board meeting, Ms. Robinson get a letter from Jeff Cole, owner of TM# 24.-1-103, stating that he will transfer/sell it to her so she can merge it with TM# 24.-1-104. If she gets ownership of TM# 24.-1-103 and merges it with TM# 24.-1-104, after the Land Separation (whether or not she gets/needs the side lot variance), she will have approximately 250 ft. of frontage on the parcel with her house and would meet Zoning Law requirement.
- Mr. Dylag mentioned the five points the ZBA needs to consider when deciding whether or not to grant a variance: 1) whether an undesirable change will be produced in the character of the neighborhood and a detriment to nearby property will be created; 2) whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue

other than the variance; 3) whether the requested variance is substantial; 4) whether the proposed variance will have an adverse effect on the physical or environmental conditions of the neighborhood; 5) whether the proposed variance is self-created. The one Mr. Dylag and the board focused on was whether there was a solution that didn't require a variance.

- It was suggested that the best plan for Ms. Robinson would be to include the driveway in the part of the parcel she wishes to sell and get a ninety-nine year lease (easement) on her continuing to use it. It would have to be written into the deed. Then the barn would meet the Zoning Law 25 ft. requirement for distance from the property line, making a variance unnecessary.
- Ms. Robinson was given the choice of the ZBA either voting down her variance request or her withdrawing the application. She chose to withdraw it.

Motion to Close the Public Hearing @ 7:26pm made by Mr. Dylag and seconded by Mr. Showler.

Voice Vote:

ALL (FOUR) AYES-MOTION CARRIED

Old Business: None

New Business: None

A MOTION to adjourn the meeting was made by Mr. Showler and seconded by Ms. Gabbey.

Voice Vote:

ALL AYES—MOTION CARRIED.

Meeting Closed at 7:30pm.

Respectfully Submitted,

Diane Denton

Recording Secretary

Don Dylag, Vice Chairman

(Terrance Daniel, Chairman - absent)

These minutes were approved by the Town of Pembroke Zoning Board of Appeals January 16, 2019