



THE TOWN OF PEMBROKE ZONING BOARD OF APPEALS

1145 Main Rd., Pembroke, NY 14036

Minutes for the regular meeting held on May 15, 2019

ATTENDANCE:

- Don Dylag — Vice Chairman
- Margaret Tuerk
- Cherie Uebelhoer
- Donald Showler
- Diane Denton, Recording Secretary

PUBLIC PRESENT: Yes

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

Ms. Uebelhoer, formerly an alternate, is now a regular board member, replacing Mr. Kadziolka, who resigned from the board.

MOTION TO APPROVE the Minutes from April 15, 2019 made by Mr. Showler;
Second to motion was made by Ms. Tuerk.

Voice Vote: ALL AYES—MOTION CARRIED.

Public Hearing **Area Variances** **Don Schmigel**

1418 Indian Falls Rd., Town of Pembroke
Tax Map# 10.-1-11.11
Zoning District: AG/RES
Required Referral to County

PUBLIC HEARING was opened at 7:02pm. The Notice of Public Hearing ran in the Batavia Daily News May 10, 2019, was posted on the Town’s Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Don Schmigel and Gary Gerevics, owner of property in question, were present. As a result of a proposed Land Separation, Mr. Schmigel is considering purchasing a portion of TM# 10.-1-11.11 in order to build on it. The created parcel would have zero road frontage.
- A letter was received from the Gun Club stating the organization disapproved of Mr. Schmigel’s request. Since it was formed in the mid-1950s, the club has had a shared right-of-way and experienced numerous problems with other owners using the easement costing up to \$1000 in legal fees, including a blocked driveway, too much traffic, vehicles going too fast, damage to driveway, and property line issues. The organization is concerned that another owner would just add to the problems.
- Mr. Dylag mentioned that Town Policy didn’t allow for zero frontage.

- County disapproved the application with the following explanation: The proposed variance varies substantially from the minimum road frontage required by the Town of Pembroke Zoning Law and may pose a significant inter-community impact by not allowing direct emergency access from a public road. Section 280-a of New York State Town Law requires a building lot to have at least 15 ft. of road frontage.
- Mr. Dylag reiterated that the main concern was safety.
- Mr. Schmigel noted that there was already a building without enough frontage on TM# 10.-1-11.11. At one time, there were plans to put a road there.
- Mr. Showler added that originally the house was designated as a cabin.
- Mr. Dylag said there were five points the Zoning Board of Appeals needed to consider: 1) Would there be an undesirable change in the neighborhood? 2) Could the applicant's wishes be achieved by some other method? 3) Would the variance be substantial? 4) Would there be an adverse impact on the physical environmental conditions of the area? 5) Was the need for a variance self-created? He thought there was a concern with most, even all, of the points, especially #5, the prospective buyer, Mr. Schmigel, aware that there isn't any road frontage and the property wouldn't be in compliance for building on.
- The owner of the property, Mr. Gerevics, wondered whether including the road with the portion separated from TM# 10.-1-11.11, giving the created parcel around 37 ft. of frontage, would make a difference. Mr. Dylag said that a new application would have to be submitted for such a proposal to be considered.

Public Present: Yes

Motion to Close the Public Hearing @ 7:15pm made by Mr. Showler and seconded by Ms. Uebelhoer.

Voice Vote:

ALL AYES-MOTION CARRIED

On **MOTION** made by Mr. Showler and seconded by Ms. Uebelhoer **to disapprove the application for a zero frontage variance, based on County's determination and the requirement of the Town of Pembroke zoning law.**

ROLL CALL VOTE: Ms. Tuerk-Aye; Ms. Uebelhoer-Aye; Mr. Dylag-Aye; Mr. Showler-Aye
Four (4) AYES; No (0) NAYS—**MOTION CARRIED**

Old Business: None

New Business: None

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

Voice Vote:

ALL AYES—MOTION CARRIED.

Meeting Closed at 7:18pm.

Respectfully Submitted,

Diane Denton, Recording Secretary

Terrance Daniel, Chairman

These minutes were approved by the Town of Pembroke Zoning Board of Appeals July 17, 2019