



## THE TOWN OF PEMBROKE ZONING BOARD OF APPEALS

1145 Main Rd., Pembroke, NY 14036

Minutes for the regular meeting held on July 17, 2019

### ATTENDANCE:

- Terrance Daniel — Chairman
- Don Dylag — Vice Chairman
- Margaret Tuerk
- Donald Showler
- Joseph Meacham
- Diane Denton, Recording Secretary

### **PUBLIC PRESENT: Yes**

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

Mr. Meacham, alternate, sat in for Ms. Uebelhoer, who was absent

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

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

### **Public Hearing** **Side Lot Area Variances/Pole Barn** **Thomas LaPree**

1875 Indian Falls Rd., Town of Pembroke  
Tax Map# 12.-1-15.2  
Zoning District: AG/RES  
*Required Referral to County*

**PUBLIC HEARING** was opened at 7:05pm, motion made by Mr. Dylag, second to motion by Ms. Tuerk. The Notice of Public Hearing ran in the Batavia Daily News June 29, 2019, was posted on the Town’s Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Mr. LaPree was present. He wishes to construct a 25ft. by 48 ft. pole barn style garage, positioned 10ft. from the side property line, requiring a 15ft. side lot area variance and 10ft. from the rear property line, requiring a 20ft. rear lot area variance.
- There were no responses received from any of the neighbors who had been notified.
- County approved, stating the proposed barn should pose no significant county-wide or inter-community impact. The board could decide against County’s recommendation, but would need a super majority of four (4) to do so.

- Mr. LaPree stated that his reason for positioning the pole barn as presented was because of a large tree on the side of his property and, also, due to his intent to bring the driveway around to the back of the house, to have room to turn around his truck with trailer.
- Mr. Daniel mentioned that the Zoning Board of Appeals can't change the Zoning Law, but can look at unique situations that might present a hardship or difficulty to comply.
- Mr. Daniel suggested a compromise, proposing the board allow the 20ft. back variance if Mr. LaPree moves the barn to the side lot requirement of 25ft.
- Mr. LaPree thought he could work with the barn being 15ft. from the side lot, which would require a 10ft. variance.
- Ms. Tuerk wondered if the barn would impinge on any wetlands. Mr. Daniel checked the wetlands map that showed it wouldn't.

**Public Present: Yes—applicants**

**Motion to Close the Public Hearing @ 7:17pm** made by Mr. Dylag and seconded by Mr. Meacham.

**Voice Vote:**

**ALL AYES-MOTION CARRIED**

On **MOTION** made by Mr. Dylag and seconded by Mr. Meacham to grant a 10ft. side lot variance and a 20ft. rear lot variance, based on the board's determination that doing so would not have a negative impact on neighborhood while offering relief to Mr. LaPree who agreed with the compromise.

**ROLL CALL VOTE:** Ms. Tuerk-Aye; Mr. Daniel-Aye; Mr. Dylag-Aye; Mr. Showler-Aye; Mr. Meacham-Aye

Five (5) AYES; No (0) NAYS—**MOTION CARRIED**

**Public Hearing**  
**Side Lot Area Variance/Pole Barn**

**Jeffrey Abbatiello**

8365 Lake Rd., Town of Pembroke

Tax Map# 14.-2-59

Zoning District: AG/RES

*Required Referral to County*

**PUBLIC HEARING** was opened at 7:25pm, motion made by Mr. Dylag, second to motion by Ms. Tuerk. The Notice of Public Hearing ran in the Batavia Daily News June 29, 2019, was posted on the Town's Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Mr. Abbatiello was present. He wishes to construct a 24ft. by 20ft. pole barn, positioned 3ft. from the side property line, requiring a 22ft. side lot area variance.
- There were two responses received from the neighbors who had been notified; neither had a problem with Mr. Abbatiello's intent to build a pole barn.
- County approved, stating the proposed barn should pose no significant county-wide or inter-community impact, noting that neighboring properties exhibit similar setbacks. The

board could decide against County's recommendation, but would need a super majority of four (4) to do so.

- Mr. Abbatiello stated that his reason for the pole barn was desperately needed storage space. He felt he had proposed the best spot to position it, taking into consideration trees and his leach field. He noted that his neighbor's large barn was only five (5) ft. off his property line.
- Mr. Daniel mentioned that this particular area of Lake Rd. has a mess of buildings and structures on property lines. He noted that the reason Zoning Law required setbacks is to avoid problems between neighbors. He reminded Mr. Abbatiello that, in the past, he had complained about his neighbor's barn being so close to his property line.
- Mr. Daniel wished a document showing leach field location had been presented.
- The Zoning Board of Appeals has to consider five points in any determination: 1) Would it create a detriment to other properties. Mr. Daniel thought it would. 2) Is there another option to positioning the pole barn? Mr. Daniel thought there might be. 3) Would the variance be substantial. Mr. Daniel thought it was. 4) Mr. Daniel thought it could be, especially considering drainage. 5) Is the hardship self-created. Mr. Daniel didn't think this consideration didn't carry any real weight.
- Mr. Daniel wondered why pole barn couldn't go behind current garage, as then it would comply and make for a safer situation.
- Mr. Dylag mentioned that, from the drawing presented, the pole barn looked like it would be attached to the current garage. Mr. Abbatiello said it wouldn't but be 20ft. from the garage.
- Mr. Daniel offered Mr. Abbatiello the option that the board does not decide on his application yet, but wait until the members can take a look at the location of the leach field.
- Mr. Abbatiello said he was willing to compromise and work with 10ft. from property line.
- Mr. Daniel thought that if Mr. Abbatiello could live with a 15ft. variance the board might pass it. Or the public hearing could be left open, giving Mr. Abbatiello a chance to redesign his plan and come back next month for a decision.
- Mr. Abbatiello wondered if he could make the building longer. Mr. Daniel said he could, but only as long as he complies with the 15ft. granted.

**Public Present: Yes—applicant**

**Motion to Close the Public Hearing @ 7:44pm** made by Mr. Dylag and seconded by Mr. Showler.

**Voice Vote:**

**ALL AYES-MOTION CARRIED**

On **MOTION** made by Mr. Daniel and seconded by Mr. Dylag to grant a 10ft. side lot variance with the understanding that if the length and width of the pole barn are adjusted they will comply with the side yard variance granted, this compromise being agreed to by Mr. Abbatiello.

**ROLL CALL VOTE:** Ms. Tuerk-Aye; Mr. Daniel-Aye; Mr. Dylag-Aye; Mr. Showler-Aye; Mr. Meacham-Aye

Five (5) AYES; No (0) NAYS—**MOTION CARRIED**

**Old Business:**

- Speedway is still deciding whether to tie into sewer or install a septic system.
- 500ft, wind turbine project (one in Pembroke, five in Darien) still in the works, with Special Use Permit application to possibly be submitted within a few months.
- Flying J's have pushed back the construction of the truck care facility for a few months.

**New Business:**

- Lots of houses going up in the town
- Proposal for 40 acre solar farm on Knapp Rd.

**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 7:58pm.

Respectfully Submitted,

Diane Denton, Recording Secretary

Terrance Daniel, Chairman

*These minutes were approved by the Town of Pembroke Zoning Board of Appeals August 21, 2019*