



THE TOWN OF PEMBROKE ZONING BOARD OF APPEALS

1145 Main Rd., Pembroke, NY 14036

Minutes for the regular meeting held on August 21, 2019

ATTENDANCE:

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

PUBLIC PRESENT: Yes

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

MOTION TO APPROVE the Minutes from July 17, 2019 made by Mr. Dylag;
Second to motion was made by Ms. Tuerk.

Voice Vote: ALL AYES—MOTION CARRIED.

Public Hearing **Area Variances/Building Lot** **Paul Miller**

9060 Allegheny Falls Rd., Town of Pembroke
Tax Map# 23.-1-1.113
Zoning District: LC and AG/RES
Required Referral to County

PUBLIC HEARING was opened at 7:05pm, motion made by Mr. Dylag, second to motion by Mr. Showler. The Notice of Public Hearing ran in the Batavia Daily News August 15, 2019, was posted on the Town’s Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Mr. Miller was present. He wishes to split a building lot from existing 32.4 acre parcel. Remaining lot with Mr. Miller’s current residence would require a 45 ft. frontage variance.
- There were no responses received from any of the neighbors who had been notified.
- County approved, stating the proposed variance should pose no significant county-wide or inter-community impact.
- Mr. Daniel suggested Mr. Miller buys 45 ft. from his neighbor so he wouldn’t need the variance. If that was something he would consider, the board’s consideration of his application could be put on hold.
- Mr. Miller didn’t think his neighbor would sell him any land and wanted the board to consider his application for the 45 ft. variance.

Public Present: Yes—applicants

Motion to Close the Public Hearing @ 7:11pm made by Ms. Tuerk and seconded by Mr. Dylag.

Voice Vote:

ALL AYES-MOTION CARRIED

Board discussion:

Mr. Daniels said that the position of the Zoning Board of Appeals was to look at unique situations and balance to provide relief. He went through the five points the ZBA needed to look at in consideration of a variance application: 1) Would the variance cause an undesirable change in the character of the neighborhood or detriment to nearby properties? County thought no. Mr. Daniel pointed out that there are other residences in the area that have less than 200 ft. frontage. 2) Could the benefit be achieved by some other method? Mr. Miller didn't believe his neighbor would sell him land. 3) Was the variance substantial? 4) Would granting the variance have an adverse effect on the physical and/environmental surroundings? County thought no. 5) Was the need for the variance self-created? Mr. Daniel said that most variance requests were, in some sense, self-created, but that it didn't preclude the ZBA from granting a variance.

On **MOTION** made by Mr. Daniel and seconded by Ms. Uebelhoer to grant a 45ft. frontage variance based on County's determination and weighing the five factors the Zoning of Board needs to consider.

ROLL CALL VOTE: Ms. Tuerk-Aye; Ms. Uebelhoer-Aye; Mr. Daniel-Aye; Mr. Dylag-Nay; Mr. Showler-Nay;

Three (3) AYES; Two (2) NAYS—**MOTION CARRIED** (Agreement with County's determination, therefore, a super majority not needed.)

Public Hearing
Area Variance/Structure for Skilled Trade Shop
David Linneborn

Knapp Rd., Town of Pembroke

Tax Map# 14.-1-15

Zoning District: AG/RES

PUBLIC HEARING was opened at 7:15pm, motion made by Ms. Uebelhoer, second to motion by Mr. Showler. The Notice of Public Hearing ran in the Batavia Daily News August 15, 2019, was posted on the Town's Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Mr. Linneborn was present. He bought parcel, TM# 14.-1-15 to build a house and also to relocate his business, DC Supply Inc., which manufactures erosion control products for construction sites. The business is also a sawmill that produces hardwood stakes, tree stakes, and some furniture. For his business, he wishes to construct a 10,000 sq. ft. barn-like structure as a trade shop, and 800 sq. ft. for office space.

- The parcel in question is not on a State or County road and, therefore, didn't have to go to County.
- The proposed size of the structure far exceeds the size allowed for a Skilled Trade Shop in AG/R. Zoning law allows 2000 sq. ft. and 500 ft. within the residence, i.e. for office space.
- Mr. Linneborn said that 2000 sq. ft. was too small for his large machinery and room to make his products, as well as storage. If there wasn't enough space to store wood chips inside, he could do so outside and enclose, i.e. with a temporary tent (similar to what farmers use to store hay), which would reduce size of the building by 2000 or so feet. Logs would be stored outside, behind fencing. Mr. Linneborn was willing to do landscaping.
- Everything in the building would run on electricity.
- Mr. Linneborn employs one full-time non-resident employee.
- The hours would be 8am – 5pm, closed on weekends.
- There would be one wood chip delivery per month, a typical delivery load being two 24 ft. deck trailers.
- Most of the orders come from contractors. Product is made to order, majority of orders taken over the phone and 99% delivered to buyer. Usually, there is no more than a two week turn around, product not stored for long.
- Mr. Daniel pointed out that DC Supply's website said that orders were for shipping or pick up.
- Mr. Daniel said that what Mr. Linneborn was proposing was a manufacturing facility, not a Skilled Trade Shop.
- Some nearby residents were present. Joe Kubis is the trustee for his father's neighboring property on both sides of Knapp Rd. He felt the proposal was more of a factory setting than Mr. Linneborn was letting on. Mike Staebell lives right next door and had no problem with Mr. Linneborn's proposal.
- Mr. Meacham, ZBA alternate, wondered how much noise there would be from the sawmill. Mr. Linneborn assured there wouldn't be much if any heard by the neighbors: the building being well-insulated.
- Mr. Daniel noted that the business was young, and Mr. Linneborn might want to expand it in the future. The ZBA chairman pointed out that even if the variance was granted any expansion wouldn't be possible.
- Mr. Daniel stated that in order to maintain the character of neighborhood in AG/R, Zoning Law only allows two very specific types of businesses: Home Occupation and Skilled Trade Shop.
- Town of Pembroke resident, Maryanne O'Neil mentioned that what Mr. Linneborn was proposing was exactly the size and type of business the Town wanted to avoid locating in AG/R districting.
-

Public Present: Yes

Motion to Close the Public Hearing @ 7:41pm made by Mr. Dylag and seconded by Mr. Showler.

Voice Vote:

ALL AYES-MOTION CARRIED

Discussion:

Mr. Daniel read from the Zoning Law's definition/description of a Skilled Trade Shop and went through the five conditions the ZBA must consider: 1) Would the variance cause an undesirable change in the character of the neighborhood or detriment to nearby properties? Mr. Daniel viewed Mr. Linneborn's proposal as a manufacturing facility and not a Skilled Trade Shop, not the type of business the Town wants in AG/R. In Mr. Daniel's opinion it would not fit into the character of the neighborhood and the change would be disastrous. 2) Could the benefit be achieved by some other method? Mr. Linneborn could look to locate his business somewhere in the Town that is zoned for it. 3) Is the variance requested substantial? Mr. Daniels noted that, at 13000 sq. ft., it is not even close to the 2500 sq. ft. allowed and extremely substantial. 4) Would granting the variance have an adverse effect on the physical and/environmental surroundings? Mr. Daniel thought it went hand in hand with creating an undesirable change in the district and neighborhood. 5) Is the need for a variance self-created? Mr. Daniel noted that virtually everyone who comes to the Zoning Board has an issue that is self-created.

On **MOTION** made by Mr. Daniel and seconded by Ms. Tuerk **to deny the variance request**, weighing the five points the ZBA must consider and that Mr. Linneborn's business and the size of building doesn't fit into the definition of a Skilled Trade Shop,

ROLL CALL VOTE: Ms. Tuerk-Aye; Ms. Uebelhoer-Aye; Mr. Daniel-Aye; Mr. Dylag-Aye; Mr. Showler-Aye;
Five (5) AYES; No (0) NAYS—**MOTION CARRIED**

Old Business: None

New Business: None

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

Voice Vote:

ALL AYES—MOTION CARRIED.

Meeting Closed at 7:55pm.
Respectfully Submitted,
Diane Denton, Recording Secretary
Terrance Daniel, Chairman

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