



**TOWN OF PEMBROKE  
ZONING BOARD OF APPEALS  
Minutes for the regular meeting held on October 19, 2016**

**ATTENDANCE:**

- Terrance Daniel — Chairman
- John Kadziolka
- Donald Dylag
- Donald Showler
- Erika Gabbey
- Diane Denton — ZBA Secretary

**MEETING called to order at 7:30 pm.**

**A Motion to Approve** the Minutes from September 21, 2016 was made by Mr. Showler; second to motion made by Mr. Kadziolka.

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

**Update:**

- 1) Former Chairman Nate Witkowski had to leave the board as he moved to Akron/Town of Newstead.
- 2) Erika Gabbey was appointed to fill Mr. Witkowski's remaining term.
- 3) Terrance Daniel was appointed to the ZBA Chairmanship.

**Public Hearing/Area Variances/Clark Holdings, Inc./Tim Hortons**

1106 Main Rd., Town of Pembroke  
Tax Map #19.-1-14.1; Zoning District: Interchange  
*Referred to Genesee County*

**PUBLIC HEARING** was left open from Zoning Board of Appeals meeting September 21, 2016.

- Kurt Harland and Patrick Hill were present to represent Clark Holdings/Tim Hortons.
- At September meeting there was confusion on the size of the proposed attached signs and the definition and size of the proposed free-standing sign.
- Tom Schneider and Mr. Daniel discussed changes to Clark Holding's original signage proposal with Mr. Harland, who supplied specific drawings for the attached sign and free-standing sign:
  - Attached sign is 34.2 sq. ft.
  - Free standing sign is 98.2 sq. ft.

- Chairman Daniel referred to the definition in Zoning Law. An attached sign cannot exceed 100 sq. ft. and in the Interchange District there is a specific prohibition of pole signs. What is being proposed is a pole sign (pylon sign). Also, on a building size of up to 5000 sq. ft., a free-standing sign cannot exceed 25 sq. ft., which is in sharp contrast to what is being proposed.
- A compromise is needed that is satisfactory to Tim Hortons and the town.
- Chairman Daniel thought that because part of site has been reserved for another small business and considering the town would probably not be open to another free-standing sign on the site, a monument sign could facilitate the attachment of an additional sign at a later date.
- Mr. Harland said Tim Hortons wanted to work with and fit into the community. He noted that all of the businesses down by the Thruway have pole signs. Tim Hortons does have some versions of monument signs, significantly less in size at 33.3 sq. ft. and very similar to the signage of the Tim Hortons in Clarence and Akron. He thought Tim Hortons would not be interested in building a sign with an empty panel as it potentially might never be used. If another business did locate on the parcel, he thought it would be better to come back to the ZBA to modify the existing free-standing sign.
- The placement of the free-standing sign would be on the corner, mostly facing RT.5, about 50 ft. off the road/edge of the pavement, which meets the required setback. It would be illuminated on the inside, therefore not very bright/neon.
- Tom Schneider wondered if tourist directional signs could be added on the Thruway. Mr. Harland said that it was an application process that Tim Hortons would probably consider.
- Chairman Daniel noted that, as the Interchange District grows, the board doesn't want to create a precedence with tall/"lollipop" signs everywhere. Tom Schneider mentioned that the signage at Flying J's probably wouldn't be approved now.
- Chairman Daniel recapped what Tim Hortons was requesting in regards to signage:
  - Three attached signs: 35 sq. ft. each, totaling 105 sq. ft.
  - One monument sign: 35 sq. ft.
- Zoning Code allows two on-premises signs (two attached, or one attached and free-standing). If a business is located on a through-lot (egress on two public roads, i.e. corner lot), two additional free-standing signs are allowed. Regarding the Tim Horton's Town of Pembroke proposal, Chairman Daniel interpreted the law as allowing three signs, with some flexibility of how many were attached and free-standing. Regarding a business on two streets, the code addresses the free-standing sign but not the attached signs; therefore it is clearly within the ZBA's jurisdiction to address the uniqueness of a business in this situation, taking into consideration that Zoning Law allows for three signs on a through-lot.

**Motion to close Public Hearing** made by Mr. Showler and seconded by Mr. Dylag.  
Voice Vote—ALL AYES—**MOTION PASSED.**

### **The Public Hearing Closed at 7:55pm**

On **MOTION** made by Chairman Daniel and seconded by Mr. Showler **to approve area variances to allow:**

- **Three attached signs at a total signage area of 105 sq. ft. (5 sq. ft. variance)**
- **One free-standing sign (monument style) at 35 sq. ft. (10 sq. ft. variance)**

**Justification:** According to code, three signs are allowed in this unique situation of a business on two roads, and these variances will not have any adverse effect on the neighborhood.

**ROLL CALL VOTE:** Mr. Kadziolka-Aye; Mr. Dylag - Aye; Mr. Showler -Aye; Ms. Gabbey-Aye; Chairman Daniel-Aye.

**ALL AYES—MOTION PASSED**

**Old Business: None**

**New Business:**

- Don Dylag agreed to be Vice Chairman of the ZBA.
- Discussion on starting future meetings at 7:15pm for board “to get its ducks in order.” Public could be present but its participation would still begin at 7:30pm. Diane will check to see how this should be advertised.
- Town board has advertised for ZBA alternates: non-voting members unless normal member is not present.
- Comprehensive Plan Review coming up soon.

**A MOTION** to close the meeting was made by Mr. Kadziolka, seconded by Chairman Daniel.

Voice Vote—ALL AYES

**MOTION PASSED**

Meeting adjourned at 8:21pm.

Respectfully Submitted,

Diane Denton-ZBA Secretary

Terrance Daniel-ZBA Chairman

*These minutes were approved by the Zoning Board of Appeals November 16, 2016*