



**TOWN OF PEMBROKE  
ZONING BOARD OF APPEALS  
Minutes for the regular meeting held on November 16, 2016**

**ATTENDANCE:**

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

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

**1 Correction to minutes:** under “Respectably submitted”, change chairman from Nathan Witkowski to Terrance Daniel.

**A Motion to Approve** the Minutes from October 19, 2016 with correction was made by Mr. Dylag; second to motion made by Mr. Showler.

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

**Public Hearing/Area Variance/Louis Callari**

8015 Hopkins Rd., Town of Pembroke

Tax Map #9.17-1-12; Zoning District: AG/RES

*(Not a County road; didn't need referral to County)*

**PUBLIC HEARING** was opened at 7:32pm. The Notice of Public Hearing ran in the Batavia Daily News November 8, 2016, was posted on the Town’s Bulletin Board, and letters were sent to adjoining property owners within 500 feet.

- Notice of the Public Hearing was not sent to the IFLHOA (Indian Falls Lake Home Owners Association) that owns Parker Pond (TM# 9.17-1-47), which borders Mr. Callari’s parcel. It was not realized the pond should be treated as a neighboring property.
- Louis and Stephen Callari were present, as was Philip DiNicola, who is head of the IFLHOA.
- Modifications were made to the application after its initial filing. Chairman Daniels expressed concern that it wasn’t clear what the modifications were.
- The Callaris explained that they hadn’t measured from the centerline of Hopkins Rd. Doing so changed the proposed setback to 12 ft., so, as Zoning Law requires a setback of 50 ft., a variance of 38 ft. would be needed.
- Chairman Daniel stated that if Mr. Callari set the new garage in line with house, he wouldn’t need a variance.

- Louis Callari responded that he didn't want to do so because of his horseshoe driveway. Another reason was because of the leach field to the south of the house. To the north the land drops off, so a structure couldn't be put there. Where he wants to position it wouldn't disturb any trees. His nearest neighbor was fine with his proposed placement of the garage.
- Thomas Schneider said the Town attorney had recommended the ZBA leave the public hearing open and re-notify all property owners, including the IFLHOA.
- Chairman Daniel thought the board was of the opinion that they could not take action on Mr. Callari's application until it was presented to the Home Owners Association. Within the zoning ordinance the board has 62 days from the opening of a public hearing to make a decision.
- Mr. DiNicola said the Home Owners Association board of directors require a review of any new construction. Mr. Callari's house was originally built as a summer home without need for a garage. It was thought that if a garage was ever built on the property it would be attached to the house.
- The survey presented with the application was missing a lot of information. Mr. DiNicola submitted a more comprehensive drawing of the property with all the structures on it and including the location of the leach field. He thought that, from a construction standpoint, it would be best to get a new survey done to show everything and include accurate measurements.
- Mr. DiNicola also thought it would be better to put the garage closer to the house and make it more aesthetically pleasing by building it more in the style of the house, which is a log cabin. This would allow the layout of structures on the property to appear less fragmented.
- Chairman Daniel agreed the board needed an updated survey in order to determine the correct variance needed.
- Mr. DiNicola presented two options for the location of the proposed garage: one that would only need a small variance and another that wouldn't require a variance at all. He said the Home Owners Association has six points they work off of, similar to the five points the ZBA is required to consider. Chairman Daniel went over those five points so Mr. Callari could understand what criteria the ZBA must look at in deciding whether or not to grant the proposed variance: 1) Would there be an undesirably change to the character or the neighborhood or a detriment to nearby properties? 2) Could the benefit sought by the applicant be achieved by some other method? 3) Is the variance requested substantial? 4) Would the proposed variance have an adverse effect on the physical or environmental conditions in the neighborhood? 5) Is the need for the proposed variance a self-created hardship?
- Chairman Daniel said it was a balancing act for the ZBA between the residents and the Home Owners Association. The ZBA determination can only be made within Zoning Law, which, in this case, would be on any variance needed. The board can't control types of buildings and can't get dragged into Home Owners Association issues.
- Both Mr. DiNicola and Chairman Daniel felt there was a way to place the garage 50 ft. from the right of way, so no variance would be needed. The driveway might need to be altered.
- The Public Hearing will be left open until the ZBA's December regular meeting. Mr. Callari will need to decide within a week or so which plan he wishes to go for.
- Tom Schneider will fill in the SEQR.

**Motion to keep Public Hearing open until December meeting** made by Mr. Dylag and seconded by Ms. Gabbey.

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

**ALL AYES—MOTION PASSED**

**New Business:**

- State has ruled that single-wide mobile homes (8ft. x 40 ft., 320 sq. ft.) may be allowed. Town Law sets the minimum as double-wide (740 sq. ft.).
- Chairman Daniel thought that it might be sensible to change the current Town Law Public Hearing neighbor notification to a minimum of 5 days rather than the current 10. This would be in keeping with State Law.
- Don Dylag's phone number was updated for the board member contact list.

**Old Business: None**

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

Voice Vote—ALL AYES

**MOTION PASSED**

Meeting adjourned at 8:31pm.

Respectfully Submitted,

Diane Denton-ZBA Secretary

Terrance Daniel-ZBA Chairman

*These minutes were approved by the Zoning Board of Appeals 12/21/16*