

TOWN OF NORTH EAST
ZONING BOARD OF APPEALS
MINUTES OF JULY 15, 2021

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals; ("ZBA") took place July 15, 2021, at 7:30PM in the Town of North East Town Hall, 19 N Maple Ave, Millerton, NY. ZBA members present were Chairman Julie Schroeder, Edith Greenwood, Jon Arnason, Karen Pitcher, Patti Lynch - Vandebogart and Judy Carlson, secretary to the Zoning Board. Also in attendance were Barbara Fournier, Ron Fournier, Tina Breen, Dave Intrieri, and Robert Trotta.

David Intrieri – Owner

43 Pine Ridge Rd.

Zoning district: A5A

**Area Variance – for a reduction in
the required side yard and a reduction
in the required rear yard in order to
construct 1144 square foot storage
garage. Tax parcel #:7271-09-088522**

At 7:30 PM, Chair Schroeder opened the public hearing by reading the Notice of Public Hearing into the record. David Intrieri presented his application. Chair Schroeder noted that the proposed building was quite large and asked how much equipment he had. Intrieri explained that he would like to put up a garage to store lawn equipment and two pick-up trucks.

Chair Schroeder asked why he could not comply with the setbacks. Intrieri stated that since the property was sloped, he was concerned that if the structure was put closer to the house he would not be able to get access to the septic or well. The ZBA reviewed the map and the location of the septic and well. Greenwood stated that the structure proposed seemed to be located far from the house.

Chair Schroeder asked why he could not turn the proposed structure 90 degrees on the site. Intrieri said the driveway was steep and the structure would look better if it was back in the corner of the lot.

Chair Schroeder noted that Intrieri already has a shed on the property. The code allows for one shed and one garage. She felt Intrieri's plan seemed excessive for such a small lot.

Chair Schroeder stated that all these lots were created before we had subdivisions.

The real problem arises with the access to the property. It is not a Town law; it is a State law that no building can be erected unless you have access or frontage on the public way. The Zoning board will have to refer it to the Town attorney.

Intrieri said he had a road maintenance agreement with his neighbor, Mr. Miles. Chair Schroeder explained that she had received a letter from Mr. Miles and read it into the record. The letter was dated July 11, 2021. Mr. Miles is opposed to the erection of the 1,144 square foot storage garage.

A. It is in a residential area and not an agricultural area.

B. It is not Mr. Miles' signature on the maintenance agreement attached to Intrieri's application, and the road maintenance agreement is not a legal document because it is not notarized.

C. The building is too large for the location and abuts Miles' property at 153 Pine Ridge Road.

D. Intrieri never received permission to put in a second driveway or to have the right to use Mr. Miles' private roadway.

Miles concluded that he would not oppose Intrieri placing a one story, two car garage approximately the size of 24' x 24' on his property.

Intrieri explained that twenty years ago Mr. Miles signed the paper to help him with the road. Chair Schroeder agreed that Mr. Miles had a point as the letter was not notarized, and it had hand written insertions in it.

Arnason added that this problem might be solved if the residents on Pine Ridge Road created and entered into a home owners' agreement or created an easement.

Schroeder added that according to Parcel Access Skip Miles owns the road. The home owners on Pine Ridge Road need a road maintenance agreement that deals with the road and access so it can comply with the State Maintenance law.

Ron Fournier from Pine Ridge Road told the ZBA that to make the road passable, just for this coming winter season, the road needs about \$6,000 to \$8,000 worth of gravel added to it. Chair Schroeder added for the Town to take over the road it has to comply with Town road specifications.

Intrieri acknowledged that he would have to ask his attorney's opinion in order to go further with his application.

Chair Schroeder suggested that the application be tabled until the road issue is straightened out.

Greenwood made a motion to table the application until further notice; Pitcher seconded; all voted in favor and the motion passed. Once the road situation is straightened out the Zoning Board will then refer the matter to the Town Attorney and reactivate the application. The application will have to be re-advertised when it comes back to the ZBA.

Minutes Reviewed: Two changes to the minutes of June 17, 2021, were made.

Arnason stated paragraph 3 on page 2 should read as follows:

Arnason made the motion that the variance applied for be granted subject to the construction being consistent with the plans submitted to the Board and if there were any changes or alterations the applicant needs to come back to the board.

Greenwood made a change to the minutes (page #3) 2nd paragraph from the bottom to read:
Greenwood added that action has been taken to mitigate the drainage off the new roof.

8:00PM –

Taylor Oil – Owner of Property
6073 Route 22
Zoning District: HB-III
Interpretation
Tax parcel#: 7171-12-980713

Chair Schroeder opened the public hearing by having Carlson read the Notice of Public Hearing Into the record.

Trotta, the applicant's attorney, gave a synopsis of the application. Taylor Oil started this application over three years ago. The project has been held up by the Building Department's opinion that only Taylor Oil employees could dispense fuel at this location. Trotta believes that it is now time for a new decision in the case. What the applicant is being asked to do is to disprove a negative. The code enforcement officer is saying that nowhere is it written that fuel can only be dispensed by employees. Trotta believed that since it is not written anywhere then Taylor Oil can dispense fuel.

The ZBA reviewed the Code Enforcement's letter of April 13, 2021. Chair Schroeder explained that what the April 13 letter is saying is that anyone dispensing fuel other than an employee of the bulk storage facility is not a permitted accessory use. Chair Schroeder believes that this is the heart of the problem.

Trotta stated the zoning code is set up to determine what uses are allowed in various districts. What the code enforcement officer is objecting to is an individual business practice. Trotta believes that Taylor Oil's selling of fuel is clearly a wholesale use and a wholesale business is allowed in the HBIII district. The zoning code determines uses not individual business practices. Trotta added that nowhere in the code is it written that they cannot do this. This project is a wholesale use and principally permitted.

Chair Schroeder replied that when the applicant first applied the engineer was talking about a bulk storage plant and there was no mention of credit card sales. The ZBA sent the applicant

back to the Building Department to see if credit card sales is a permitted use. Clients to this wholesale business will have to apply for the applicant's credit card. Trotta told the ZBA that the applicant's operations in other towns show that ninety percent of Taylor Oil's customers for this business are customers who have a fleet of vehicles or municipal fuel needs. The applicant's definition of customer type is corporate customers seeking a wholesale price for fuel for company owned vehicles.

There was discussion of what the definition of the word "**wholesale**" was in this case and if the business was going to be a twenty-four-hour-seven day a week operation. The ZBA also decided that further explanation was needed on who would be the applicant's customers and how the business would operate.

Chair Schroeder made a motion to recess the hearing until August 19th. Arnason so moved; Greenwood seconded; all voted in favor and the motion passed.

Motion made to adjourn the meeting by Chair Schroeder; Greenwood seconded; all voted in favor and the motion passed.

Respectfully Submitted,



Judith A. Carlson
Zoning Board Secretary

APPROVED: August 19, 2021

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