

Meeting Minutes  
Town of Richmond  
**ZONING BOARD OF APPEALS**  
Tuesday, February 20 2018 7:00 PM

**Board Members:**

John Morsheimer (Chairman)	Present
Steve Ryan	Present
Mary Beth Sauerteig	Present
Dave Baker	Present
Jared Ransom	Present

**Alt. Board Member:**

John Marrapese	Present
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**Code Officer:**

Spencer Shumway	Present
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**Secretary:**

Lindsay McMillan	Present
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**PUBLIC**

Doug Rogers	Corey Auerbach
Jim Margan	Vicky Margan
D.Chertra	Jaime McIntee
Josh Knapp	Khris Bailey
Kristin Owens	Julie LiVecchi
Kayla Bailey	Michelle McIntee
Dan Sek	Cindy Morsheimer
Kyle Morsheimer	Eric Morsheimer
Duane Scauzo	Kip Gillian
Erica Edwards	Rhonda Bailey
Sheila Chalifoux	

John Morsheimer called the meeting to order at 7:00 PM with the Pledge of Allegiance.

John Morsheimer made a motion to approve the January 16<sup>th</sup> 2018 meeting minutes. Mary Beth Sauerteig seconded. Ayes unanimous.

**PUBLIC HEARINGS**

John Morsheimer motioned to open the public hearing for Doug Rogers, owner of property located at 8491 New York Street, Honeoye Tax ID #150.38-3-64 in the D District. Mary Beth Sauerteig seconded the motion, ayes unanimous. The applicant submitted an area variance application to construct a two-car garage with a second level, attached to the existing residence. Mr. Rogers is seeking to develop approximately 40% of the property with the density schedule limit of 30%.

Doug Rogers was present. Board members reviewed the conceptual from last month. John Morsheimer asked if anyone in attendance wanted to speak about the project and no one came forward. The proposed project would be an improvement to the property and is similar to the current character of the area. The garage will be built on an existing gravel drive. An architect has done conceptual drawings and the applicant assured the board that the 25x25 foot garage will fit within the setback requirements. A survey was not performed, but the architect did verify the property dimensions using ONCOR. An As-Built survey will be done by the time the building is completed. CEO Spencer Shumway will collect as part of the Certificate of Occupancy.

John Morsheimer motioned to close the public hearing, Mary Beth Sauerteig seconded, ayes unanimous.

John Morsheimer motioned to accept Doug Rogers' request for relief regarding the density schedule as laid out in his application. Steve Ryan seconded, ayes unanimous.

**CONCEPTUAL REVIEWS**

John Morsheimer opened a discussion on the appeal request brought by "Neighbors for the Enforced and Updated Codes", represented by Barclay Damon LLP. The neighbor group is requesting clarification and an appeal of the Code Enforcer's November 30, 2017 determination regarding the Bailey property located at 5297

County Road 37, Honeoye Tax ID #149.900-1-41.100. The informational session is for involved parties to understand the topics and concerns; there will be no official determinations made at this meeting.

John Morsheimer began the session by asking for the group's full name and address, and for clarification on the specific statement or appeal.

Corey Auerbach from the law firm Barclay Damon came forth as representing applicants under the acronym NFEUC (Neighbors for the Enforced and Updated Codes) for the underlying interpretation appeal. Barclay Damon at 9276 Main Street Suite B in Clarence, NY 14031 can be used as the mailing address. Mr. Auerbach referenced correspondence dated January 26, 2018, which was sent to Ms. Chalifoux and the Code Enforcement Officer stating his client's desire to appeal the determination of Mr. Shumway as it relates to the permitted uses of the Bailey parcel based upon the zoning ordinance in effect in the Town of Richmond. Mr. Auerbach asks the board to perform a review of Mr. Shumway's determination and to consider whether any permits or approvals should have been made prior to the determination.

Mr. Auerbach further explained his client's concern that the subject parcel has been improved using machinery and that the property is being used for outdoor recreation, which is outside the list of ten permitted uses in the Town's A Residential / Agricultural District. The board asked if other properties in this area are being used in a similar manner. A discussion on the activities that may or may not be included as customary recreation activities ensued (ATV or motorcycle use, volleyball, ice skating, tennis, etc). Mr. Auerbach recognized that the activities mentioned would be considered accessory uses and would qualify as permissible outdoor recreation if there was a principal permitted use for the property, however, the Bailey property has no certificate of occupancy or certificate of compliance on file.

John Morsheimer asked Mr. Auerbach to explain the specific complaints of the neighbors group; Steve Ransom asked if the noise ordinance was effected, Dave Baker asked if the sedimentation control law was brought up. Mr. Auerbach reference page two in the documentation provided, which laid out the specific concerns of the neighbors group.

John Morsheimer then opened the discussion to include input from attendees.

Spencer Shumway said there was an existing agricultural structure already on the property.

Being that the Bailey property is on a County Road, the board would consider giving the County the opportunity to weigh in if the topic went to a public hearing. A permit for erosion control was taken out, but was not issued because the Baileys decided not to pursue it.

Dave Baker expressed concern over the board adopting Mr. Auerbach's interpretation of the code, which would then apply to all properties within the district and town and may cause a backlash amongst neighbors carrying issue with other forms of outdoor recreation not clearly listed under the permitted uses. Mr. Baker requested that members of the neighbors group be identified so that the board may learn more about the wishes of the community and to know if they have standing to bring the issue before the board. Mr. Auerbach represents at least one adjoining property owner, and will request that other members of the NFEUC come forward to identify themselves if they are willing before the public hearing.

Property owners Khris and Rhonda Bailey came forward to explain how they came about obtaining the property and what their intended use was for it. Mr. Bailey wanted a place to camp with his family and ride ATVs. They are willing to work with their neighbors to find solutions for the noise complaints.

Several neighbors and community members came forward and indicated that the level of activity is beyond family use and expressed their concern over the development of a motocross track, with land being moved and machines being used.

Sheila Chalifoux questioned the property having "no use", and discussion on how a change of use would impact this situation. More research must be done.

John Morsheimer explained that the discussion will be continued in a public hearing forum in March and the board will present their findings in April. The board will likely refer this issue to the County for input.

**NEW BUSINESS**

None presented.

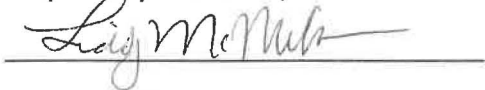
**OLD BUSINESS**

None presented.

John Morsheimer motioned to adjourn the meeting at 8:06 PM. Mary Beth Sauerteig seconded.

The next regular meeting of the Town of Richmond Zoning Board of Appeal will be held at 7:00 PM on Tuesday March 20, 2018 at the Richmond Town Hall, 8690 Main Street, Honeoye New York.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Lindsay McMillan", is written over a horizontal line.

Lindsay McMillan, Secretary  
Richmond Zoning Board of Appeals

Dated: 3/20/18

