

Meeting Minutes  
Town of Richmond  
**ZONING BOARD OF APPEALS**  
Tuesday, April 17 2018 7:00 PM

**Board Members:**

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

**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**

Dave Violas	Kip Gillian
Khris Bailey	Kayla Bailey
Aaron Maseingelo	Jamie McIntee
Michelle McIntee	Rhonda Bailey
Jim Musclow	Julie LiVecchi
Kristin Owens	Dave Richardson

John Morsheimer called the meeting to order at 7:01 PM with the Pledge of Allegiance.

John Morsheimer made a motion to approve the March 20 2018 meeting minutes. Dave Baker seconded. Ayes unanimous.

John Morsheimer made a motion that an audio recording of the March 20 2018 Zoning Board meeting be saved as part of the public record. Dave Baker seconded.

**CONCEPTUAL REVIEWS**

Applicant Gordon Simmons for property located at 9479 Richmond Mills Road (County Road 15) Tax ID #120.00-1-7.311 in the A District (Residential/ Agricultural), requesting a Special Use Permit for a residential roof mounted solar PV array to be installed on the existing house. Zoning code 200-50.

Applicant was not present. Spencer Shumway has reviewed the specs for the solar unit and the roof will support the unit. The public hearing will be advertised for the May 21<sup>st</sup> meeting.

**NEW BUSINESS**

None presented.

**OLD BUSINESS**

John Morsheimer opened the Board discussion regarding the Appeal of the Determination for the Bailey property located at 5297 County Road 37 in Honeoye, NY. The Zoning Board's final decision will not relate to what activities can or cannot be done on an individual's property, but will address the determination made by the Code Enforcement Officer, and whether or not it was in accordance with proper procedure.

The board had a discussion to try to clarify if a principal use for the property has been established. The ten principally permitted uses allowable under the Town's code were reviewed, any of which would

allow for accessory use. The board agreed that the Town's current code is flawed in that outdoor recreation is not currently permitted on a property without an established principal use.

The board allowed several questions and comments from attendees on which types of agricultural activities would establish a primary principal use, and what the timeline for establishing the permitted use is after the purchase of the property. Both board members and meeting attendees recognized that the ongoing discussion on this issue is not because the Town is requiring property owners to get permission to use off-road vehicles, but is due to the NFEUC and their law firm Barclay Damon bringing to light existing issues in the Town's code.

Spencer Shumway commented that at the time of the original determination, his evaluation was that the Baileys were not in violation of any codes or ordinances, which allowed them to proceed with the activities presented to him at that time.

John Morsheimer read an excerpt from the Statement of the Appeal from Barclay Damon stating, "Mr. Shumway determined that no permit, approvals, or other authorizations were required for physical improvements to the property and that outdoor recreation by off-road vehicles was a permitted use under the code." The appeal states that the CEO's determination ignored the plain wording of the code.

The board continued discussion. John Morsheimer presented a motion:

The Bailey Property is in violation of Town code based on the finding of fact that a permitted principal use has not been established. Therefore, board agrees with Appeal brought forth by the Neighbors for Enforced and Updated Codes that the Code Enforcement Officer's November 30<sup>th</sup> 2017 determination was incorrect.

Dave Baker seconded.

#### RECORD OF VOTE

	<u>MEMBER NAME</u>	<u>AYE</u>	<u>NAY</u>
Chair	John Morsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	Steve Ryan	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Member	Mary Beth Sauerteig	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	Dave Baker	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	Jared Ransom	Not Present	
Alternate	John Marrapese	Abstained	

Motion carries with three votes aye, one vote nay in favor of the NFEUC, based on the one finding of fact that a principally permitted use was not established.

Dave Baker proposed a motion that the ZBA will craft a letter to the Richmond Town Board outlining the deficiencies in the current code and areas where it should be corrected, and request that they act upon it expeditiously. John Marrapese seconded. Ayes unanimous, motion carries.

John Morsheimer motioned to adjourn the meeting at 8:16 PM. Steve Ryan seconded, ayes unanimous.

The next regular meeting of the Town of Richmond Zoning Board of Appeals will be held at 7:00 PM on Tuesday May 15 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: 5/15/18

