

# TOWN OF MILO, NEW YORK

Zoning Board of Appeals  
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**Meeting Minutes**  
Meeting Date: June 28, 2016



## 1) Call to order.

- a) The Chairperson of the Zoning Board of Appeals called to order the meeting of the Zoning Board of Appeals at 6 PM in the conference room, which is located at 137 Main Street – Town Hall, Penn Yan, New York.

## 2) Pledge of Allegiance.

- a) The Chairperson of the Zoning Board of Appeals led all present in the pledge of allegiance to the United States of America.

## 3) Attendance.

- a) Board members. The following board members were present at this meeting:
  - i. Phil Riehl
  - ii. Terry Jensen
  - iii. Gerald Masucci
  - iv. Ben Sward
  - v. Jake Reddout

A quorum was present to hold this meeting.

- b) Town staff. The following town staff was present at this meeting:
  - i. Anthony Validzic – Code Enforcement Officer

- c) Public:
  - i. John Busch, Jr.
  - ii. Aaron Zimmerman, Jr.
  - iii. Lawrence Horning
  - iv. (unknown person – did not sign in)

## 4) Open Meetings' Law.

- a) The Chairperson of the Zoning Board of Appeals read the Open Meeting's Law statement to the board members and the public. There were no requests from the public to obtain copies of said statement at this meeting.

## 5) Approval of minutes from last meeting.

- a) The ZBA reviewed the October 2015 meeting minutes.

- i. The Chairperson of the Zoning Board of Appeals asked if any revisions are needed to the submitted meeting minutes. No revisions were requested. Member Terry Jensen made a motion to approve the meeting minutes as submitted. Said motion was seconded by Member Ben Sward. The members voted and the results were:
  - (1) Phil Riehl – Aye
  - (2) Terry Jensen – Aye
  - (3) Gerald Masucci – Aye
  - (4) Ben Sward – Aye
  - (5) Jake Reddout – Aye

A majority affirmative of the Zoning Board of Appeals was achieved and the motion was adopted.

**6) Comments from Town staff, chairperson or other board members.**

- a) The Secretary read the Public Hearing Protocol.
- b) The Secretary informed the public that any individual present at this Public Hearing is invited to speak before this Board to discuss their opinions about the application under review as expressed in the Public Hearing Protocol. However, the Town of Milo wants it clearly understood that if an individual who has submitted written communication to the Town of Milo, which pertains to said application under review, speaks at this Public Hearing, he, she or they rescind(s) his, her or their right to confidentiality. Lastly, said action will cause the Town of Milo to have no other recourse but to allow said communication(s) to be fully disclosed and obtained pursuant to a FOIL.

**7) Applications under review.**

- a) Application No.: ZBA-06-28-2016A: An application for this board's determination pertaining to one (1) area variance (i.e., front yard to Keuka View Estates Road) for the construction of an attached private garage at 10 Keuka View Estates Road, which is more specifically known as Tax Map Identification Numbers 61.65-1-20.
  - i. The Chairperson of the Zoning Board of Appeals asked the applicant to address the board and provide a brief summary of the proposed application. John Busch, Jr. and Lawrence Horning provided a brief explanation of their application.
  - ii. The members of this board reviewed the application and supporting documents. The Chairperson of the Zoning Board of Appeals asked if the members of this board had any questions to be addressed by the applicant. No questions were asked by the members of this board to the applicant.
  - iii. The Chairperson of the Zoning Board of Appeals opened the Public Hearing at 6:10 P.M. and invited the public to speak to the board pertaining to this application. No public comments were received and the Public Hearing was closed at 6:11 P.M.
  - iv. The Secretary asked the applicants if they have read the conditions written in Resolution No.: 2016-009 / Final Determination. John Busch, Jr. and Lawrence Horning informed the Secretary and the board that they have read said resolution and have no objections to the conditions prescribed therein.
  - v. The Secretary asked the board if they read the "Statement of Hardship" that contains the five state designated criteria that this board must consider to "balance the benefit to be realized by the applicant against the potential detriment to the health, safety and general welfare of the neighborhood and community if the variance was granted." Said board informed the Secretary that they have read the

“Statement of Hardship” and agree with the responses to the state mandated questions as written in Resolution No.: 2016-009 / Final Determination.

- vi. The Chairperson of the Zoning Board of Appeals asked for a motion to approve Resolution No.: 2016-009 / Final Determination as submitted. Member Terry Jensen made a motion to approve said resolution as submitted. Such motion was seconded by Member Phil Riehl. The members voted and the results were:
  - (1) Phil Riehl – Aye
  - (2) Terry Jensen – Aye
  - (3) Gerald Masucci – Aye
  - (4) Ben Sward – Aye
  - (5) Jake Reddout – Aye

A majority affirmative of the Zoning Board of Appeals was achieved and the resolution was adopted. This completes the activity the Board shall execute for this application.

- b) Application No.: ZBA-06-28-2016B: An application for this board’s determination pertaining to two (2) area variances (i.e., front yard to Bath Road and setback to a perennial stream) for the construction of a concrete agricultural manure storage facility at 3663 Bath Road, which is more specifically known as Tax Map Identification Numbers 97.02-1-10.

- i. The Chairperson of the Zoning Board of Appeals asked the applicant to address the board and provide a brief summary of the proposed application. Aaron Zimmerman, Jr. provided a brief explanation of their application.
- ii. The Secretary read the following paragraph from a letter, dated January 9, 2012, that was written by Robert Somers, Manager, of NYS Department of Agriculture and Markets:

“Most zoning officers and building inspectors do not have the training and experience to oversee the construction of a manure storage facility. In the Department’s view, Town staff should consult with [Soil and Water Conservation District] SWCD staff or the engineer responsible for the design when conducting on-site inspections so that their expertise is utilized to ensure that the facility is constructed properly in a way that also meets the needs of the farm operation.”

The Secretary reminded the members of the Zoning Board of Appeals that Yates County Soil and Water Conservation District reviewed the construction documents and such district has recommended approval of this area variance.

- iii. The Secretary reminded the members of the Zoning Board of Appeals that the concrete agricultural manure storage facility is classified as an agricultural building and is exempt from obtaining a Building Permit pursuant to Section 101.2, Exception #2, of the Building Code of NYS, 2010 edition.
- iv. The Secretary reminded the members of the Zoning Board of Appeals that the concrete agricultural manure storage facility is classified as a farm building and its construction documents are exempt from being stamped with the seal of a Registered Design Professional licensed in NYS pursuant to Section 7307(5) of the Education Law of NYS.
- v. The members of this board reviewed the application and supporting documents. The Chairperson of the Zoning Board of Appeals asked if the members of this board had any questions to be addressed by the

applicant. No questions were asked by the members of this board to the applicant.

- vi. The Chairperson of the Zoning Board of Appeals opened the Public Hearing at 6:15 P.M. and invited the public to speak to the board pertaining to this application. No public comments were received and the Public Hearing was closed at 6:16 P.M.
- vii. The Secretary asked the applicants if they have read the conditions written in Resolution No.: 2016-010 / Final Determination. Aaron Zimmerman, Jr. informed the Secretary and the board that they have read said resolution and have no objections to the conditions prescribed therein.
- viii. The Secretary asked the board if they read the "Statement of Hardship" that contains the five state designated criteria that this board must consider to "balance the benefit to be realized by the applicant against the potential detriment to the health, safety and general welfare of the neighborhood and community if the variance was granted." Said board informed the Secretary that they have read the "Statement of Hardship" and agree with the responses to the state mandated questions as written in Resolution No.: 2016-010 / Final Determination.
- ix. The Chairperson of the Zoning Board of Appeals asked for a motion to approve Resolution No.: 2016-010 / Final Determination as submitted. Member Terry Jensen made a motion to approve said resolution as submitted. Such motion was seconded by Member Gerald Masucci. The members voted and the results were:
  - (1) Phil Riehl – Aye
  - (2) Terry Jensen – Aye
  - (3) Gerald Masucci – Aye
  - (4) Ben Sward – Aye
  - (5) Jake Reddout – Aye

A majority affirmative of the Zoning Board of Appeals was achieved and the resolution was adopted. This completes the activity the Board shall execute for this application.

## 8) Other Business.

- a) Training. The Secretary provided training to the board members in regards to the "Guide to Planned Unit Development" written by NYS Legislative Commission on Rural Resources.

## 9) Adjournment.

- a) The Chairperson of the Zoning Board of Appeals asked for a motion to adjourn the meeting at 6:58 P.M. A motion was made by Member Terry Jensen and seconded by Member Phil Riehl. The members voted and the results were:
  - i. Phil Riehl – Aye
  - ii. Terry Jensen – Aye
  - iii. Gerald Masucci – Aye
  - iv. Ben Sward – Aye
  - v. Jake Reddout – Aye

A majority affirmative of the Zoning Board of Appeals was achieved and the meeting was adjourned.