

**TOWN OF CAMPBELL ZONING BOARD OF APPEALS  
MINUTES OF MEETING HELD OCTOBER 23, 2017**

**PRESENT:** David Swan, Deborah Baldwin, William E. Galligan, Albert L. Johnson II, and Secretary to ZBA: Sandra M. Austin.

**NOTE:** One seat on the Board is currently vacant.

**ABSENT:** None.

**GUESTS:** Fran Sherwood, Kris Bower, David Fleet, Linda Bailey, John Bailey, Theresa Hakes-Drumm and Shelain Newell.

**Call to Order.**

In the absence of a chairman, at 6 p.m., Albert Johnson called the meeting to order at the meeting room of the Campbell Town Hall, 8529 Main Street, Campbell, New York.

**Selection of Chairman.**

It was noted that Glenn Vogel, the Board's chairman, had resigned in July to take a position on the Town Board. Discussion was had as to the chairmanship. A motion was made by Galligan and seconded Baldwin to appoint David Swan as Chairman and Albert Johnson as Vice-chairman. The motion passed unanimously.

**Prior Minutes.**

The prior minutes of June 7, 2017 were reviewed and a motion was made by Galligan and seconded by Johnson to accept same as written. The motion passed unanimously.

**Planning Board Referrals.**

It is noted that Planning Board referrals, for review of variances, have been waived by their November 16, 2016 blanket waiver.

**Monroe Tractor & Hansen Legacy —Appeal #2 of 2017.**

Appeal #2 of 2017 is an application from Monroe Tractor and Hansen Legacy Properties, LLC—for an area variance to allow a sign of the size of 3' x 50' [or 150 sq. ft.] on the front of the building at 8194 Route 415 where the requirement is 77.74 sq. ft. of allowable square footage of signage per the requirements of the Town of Campbell Zoning Law Section 11.5.4.

Notice of this public hearing and meeting was published in The Leader on October 16, 2017, and such notice was duly posted on the signboard at the Campbell Town Hall and on the web site.

Public hearing notices for this appeal had been sent by the Town Clerk to owners of 4 neighboring properties.

Chairman Swan declared the public hearing open at 6:10 p.m. with the following persons speaking:

Kris Bower explained that it would be a non-lit sign which is elevated on the building about 9 feet. Lighting would come up from the ground. It was positioned to be centered on the building and it was a standard Monroe Tractor sign.

There was no other public comment and the public hearing was declared closed at 6:20 p.m.

### **FINDINGS:**

The Board discussed the evidence received and made the following findings with unanimous agreement:

1. **Change Character of the Neighborhood.** It does not create a detriment to nearby properties; the appearance should not be a problem. The neighborhood is rural and agricultural.
2. **Other Feasible Methods.** It appears that there are no other feasible ways to accomplish applicants' current objectives.
3. **Is the Request Substantial?** The majority of the Board agreed that it is a substantial request; it is approximately double what is allowed.
4. **Effect on Physical or Environmental Conditions.** The Board agreed unanimously on the following: There is nothing to indicate an undesirable effect on the physical or environmental conditions in the neighborhood or district. There appears to be no health or safety issues.
5. **Self-created Issue.** This is relevant to the decision but doesn't necessarily preclude the granting of the variance. The Board said it was self-created.

### **DECISION:**

Based on these findings documented in the record, the Zoning Board of Appeals, decides as follows:

A motion was made by Johnson, seconded by Baldwin that the Board hereby grants the variance as requested by Monroe Tractor and Hansen Legacy Properties, LLC—for an area variance to allow a sign of the size of 3' x 50' [or 150 sq. ft.] on the front of the building at 8194 Route 415 where the requirement is 77.74 sq. ft. of

allowable square footage of signage per the requirements of the Town of Campbell Zoning Law Section 11.5.4. The motion passed with 4 votes in favor.

**Tracy Fleet—Appeal #3 of 2017.**

Appeal #3 of 2017, is an application from Tracy Fleet for a use variance to allow two principal residences on the same lot at 4549 Meads Creek Road in the B-1 Neighborhood Business Zone, which is not allowed under Article 5.4.1 of the Town of Campbell Zoning Law.

Notice of the public hearing and meeting was published in The Leader on October 16, 2017, and such notice was duly posted on the signboard at the Campbell Town Hall and on the web site.

It was also noted that notices were sent to owners of 15 neighboring properties. This covered an area approximately 500 feet from the subject property.

**Public Hearing.**

At 6:25 p.m. the chairman declared the public hearing open concerning the Appeal #3 of 2017 for a use variance as above described.

Public comment was as follows:

David Fleet—Tracy, his wife, bought the property at the tax auction. There is a mobile home there and an existing structure [ 16 ft. x 20 ft.] which many years ago used to be a house; he would like to make it a 1-bedroom dwelling; he thinks there is plenty of room for another vehicle. He would re-do the downstairs; the upstairs would be an attic with insulation.

Linda Bailey—asked what the distance is between the storage area and the trailer; there is no diagram in the file as to distances.

Shelain Newell says she lives 118.80 feet away from this lot. She says it's very small and thinks the lot is way too small for another dwelling; also there is already a neighbor in the trailer who's nasty and a trouble maker.

Theresa Hakes-Drumm says that from the survey map she has that the side of the building is 3.4 feet from the line and that there is a shed in the back on the line; she feels it is too congested and too close to the property line. She also worries about that many people are there in a small area; she lives directly across the road in the blue house; and noted that she had to move her trailer out when they built the house.

Linda Bailey said that if you open the door to clustering more housing in this area, that this will lower her property value.

Mr. Fleet noted that this structure has been there for decades and he would like to improve it. It is also noted that the Board had received a letter of support from Doug Kapral which is appended to the file.

There were no other persons who wished to speak for or against the plan and the public hearing was then declared closed at 6:43 p.m.

**FINDINGS:**

The Board discussed the evidence received. It was noted that to grant a use variance that the applicant must convince the Board that the case passes all 4 of the criteria. The Board then made the following findings:

**Reasonable Return.** The applicant has not provided any deprivation argument. Applicant must show that he cannot derive a reasonable return by any permitted use. There was nothing submitted to substantiate that the property is not suited for any purpose which is allowed under the zoning law.

**Unique Hardship.** It was thought to be a unique situation but similar ones were pointed out.

**Essential Character of the Neighborhood .** The Board has a differing opinion as to whether the granting of this variance would alter the character of the neighborhood or not.

**Self-Created.** It was the feeling that it was definitely a self-created hardship.

**Noted for the record:** Mr. Galligan was frustrated with the whole discussion and said he was resigning from the Board; then exited the meeting.

The objections of the surrounding neighbors were also noted.

The Board agreed that no unnecessary hardship associated with the use of the land, or otherwise, has been proven by the applicant.

**DECISION:**

Based on these findings set out above, the Zoning Board of Appeals, decides as follows:

A motion was made by Baldwin seconded by Johnson that based on the Findings of the Board as above-outlined, the Board hereby denies the use variance application as requested by Tracy Fleet. The motion passed with 3 votes. [Galligan was absent for the vote.]

Chairman Swan asked the secretary to take care of notifying applicant of her appeal rights—she would have thirty days to appeal this decision to the Supreme Court.

**Adjournment.**

There being no further business before the Board, the meeting was adjourned at 7:30 p.m. by motion of Johnson, and seconded by Baldwin.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sandra M. Austin". The signature is written in dark ink and is positioned above the printed name.

Sandra M. Austin, Secretary to  
Town of Campbell Zoning Board of Appeals

**Dated:** October 26, 2017.