

TOWN OF KENDALL
ZONING BOARD
MEETING MINUTES

August 21, 2007

CALL TO ORDER: Chairman Banker called the meeting to order at 7:02 p.m.

ROLL CALL: Members:

Kevin Banker, Chairman	present
Pam Rowles	absent
Chuck Patt	present
Mike Hanlon	present
JoAnn Herman	present

ALSO PRESENT:

Scott Hardenbrook, Code Enforcement Officer
Dave Schuth, Town Board representative
Marianne Wilson, recording secretary

Donald Pritchard, 1543 Norway Rd
Allen & Beverly Lofthouse, 2191 Center Rd
Jim Burr, 8149 Buffalo Rd, Apt 2, Bergen
Dawn Gardner, 15689 Roosevelt Hwy, Kent
Judy & James Gaylord Jr, 201 Oak Orchard Estates, Albion
Dan Hurt, 15688 Roosevelt Hwy, Kent

APPROVAL OF MINUTES: Minutes of July 31 were reviewed. JoAnn moved they be accepted as amended. Second by Chuck. All in favor.

SCOTT HARDENBROOK: Rosenberger application distributed. To be heard at next meeting. Property to the east is vacant. House to the west is set back such that existing house already blocks the view. Homeowner is out of state. Nephew resides in the house. Scott will provide contact information so appointments can be made to view the property prior to September meeting.

TRAINING: Workshop October 3 at the county. Kevin approves attendance for this board for credit.

PUBLIC HEARING: 7:15 p.m. Consideration of application by James Burr to place a 1986 mobile home on property at 15679 Roosevelt Highway. Pursuant to Article V, Section 507. Article VI, Section 620 pertaining to mobile homes is not applicable in this situation as there is no preexisting mobile home on site. This is a Usage Variance Application. Currently garage on property is 70 to 80 feet setback. There is a camper by the pond on site. No changes to original application. Roughly 3.5 acre parcel, after selling a parcel to James Gaylord on the west side. The mobile home in question is currently situated in Short Track and owned by Mrs. Burr. The intent is to co-own the properties in both towns, as well as the mobile home. A perk test was done in July 1992. The intent was to build but unable to afford it. The perk test is valid for the number of bedrooms approved by the health department.

Discussion of definition of mobile home vs modular vs manufactured home. Town of Kendall ordinance only allows mobile homes in a permitted mobile home park, of which there are currently none.

Mr. Burr says he would like to live in Kendall. He cannot afford to build at his current level of income. A copy

of his 2006 income tax return was provided to indicate financial hardship as the basis for this application.

Discussion opened to public attendees:

Allen Lofthouse states that in 1964 his brother was denied a variance for a mobile home. He opposes acceptance of this application and doesn't understand why the application was accepted. Answer: Everyone may apply and follow the process. New York state law requires a review of all applications by the Zoning Board.

Dawn Gardner states she lives on the east side of this property. Wonders if the perk test is still application after the subdivision of the property. Answer: The septic system site is 150 feet from the well. Subdivided property is well to the east. A pond was dug and the soil used to raise the soil level so the perk test would pass. The Town could ask the County Health Department to revisit this concern. Ms. Gardner also asks where Mr. Burr intends to situate the mobile home on the property should it be approved. Answer: to the west side of the existing garage, not visible to neighbors. She also states there are several vehicles on the property. She provided photos showing a dump truck and camper. Kevin explained the New York state law regarding motorized vehicles. Ms. Gardner further states she is concerned about current upkeep or lack thereof and possible placement of the mobile home.

Dan Hurt lives across the road. He asks if he would also be allowed to install a mobile home if Mr. Burr is allowed to do so. Kevin read Section 833 of the ordinance in regards to granting a use variance.

The property is within 500 feet of a county road; therefore, it may require referral to Orleans County Planning Board. The Zoning Board has 62 days to render a decision. The Planning Board also has 60 days to decide. A letter from the Town Board issued by resolution at the August 16 meeting states the members of the board are not in favor of granting this application.

The mobile home is currently situated at a campsite which was to have been converted to a mobile home park. Those plans have changed, requiring that it be relocated.

Mr. Burr filed single income last year. He has been married 2 months. He says he can situate the mobile home so that it would not be visible by any of his neighbors. Mr. Lofthouse states he feels it would set a precedent, whether it was visible from the road or not.

Public hearing closed at 7:45 p.m.

Return to New Business:

Zoning Board members will visit the Rosenberger residence before September 18 public hearing.

DECISION ON PUBLIC HEARING: Discussion on future ownership of the Burr property. If approved, it would go before the Orleans County Planning Board. A mobile home was removed from Kenmor Rd property, by owner Phil Marshall. There are approximately 5 mobile homes grand-fathered under the ordinance. There is a modular home on Bridge Rd.

JoAnn says she has 2 problems: 1) the age of the mobile home and 2) the zoning ordinance clearly does not allow placement, only replacement of existing mobile homes. Section 620a states the current law.

Kevin reviewed the 5 criteria on page 674 of the Town of Kendall Ordinance. Discussion followed. Placement of a mobile home could create depreciation of the current property. Based on public input, it may considerably alter the character of neighboring properties. The hardship plea was considered. Temporary housing is allowed for up to 4 months with a minimum \$5,000 bond to cover removal costs. The 4 month term can be extended twice. Campers allowed for up to 2 weeks; there are no age restrictions. Only criteria 2 is applicable in this situation. Personal feelings are not a determining factor. Again refer to the ordinance. Public input is anti; Town Board input is anti. This board has to option of tabling or making a decision tonight. JoAnn states that the Town Board's letter might better have cited the law, rather than addressed personal feelings related to this application.

JoAnn moved application 07VAR12 request be denied, based on Section 620a of the Town of Kendall Ordinance, and the fact that only 1 of 5 deciding criteria were met. Seconded by Chuck. No further discussion. Roll call vote: unanimous. Letter of decision will be mailed within 3 days.

NEW BUSINESS: The Town Board is supporting the proposal of conversion of Norway Heights to a public road once it is brought up to code. All property owners must buy into the proposal. Banner Beach is in better condition. Both have public water. The highway superintendent is working with both homeowner associations.

Mike asks Scott how Rick Seaman is progressing on the Bissell property on County Line Rd. Scott says Rick visited in spring for health codes. However, Rick resigned as deputy at end of June. Scott is interviewing a candidate tomorrow.

Application deadline for September meeting will be August 31.

ADJOURNMENT: Mike moved the meeting be adjourned. Seconded by JoAnn. All in favor. Meeting adjourned 8:16 p.m.

Respectfully submitted,

Marianne Wilson
Recording Secretary