

TOWN OF KENDALL
ZONING BOARD OF APPEALS
MEETING MINUTES

Tuesday, April 21, 2009 – 7:00 p.m.

CALL TO ORDER: Chairwoman Rowles called the meeting to order at 7:04 p.m.

ROLL CALL: Pamela Rowles, chair - present
 Kevin Banker - present
 Michael Hanlon - present
 Gay Smith - present
 Patrick Bolton - present

ALSO PRESENT: Larry Gurslin, Code Enforcement Officer
 Paul Hennekey, Code Enforcement Officer II
 David Schuth, Town Board Representative
 Jack Gillman, Town Supervisor
 Marianne Wilson, Recording Secretary

Gary Kludt, 16029 Bridge Rd
Matt Kludt, 1161 West Kendall Rd
Mark Groves, 16588 Carr Rd
Mary Jo & Andy Jenks, 16769 Kenmor Rd
Linda Pruner, 16764 Kenmor Rd

CORRESPONDENCE: Orleans County Legislature Town Hall Meeting on June 2, 7:00 p.m. at the Orleans County 4-H Fairgrounds Trolley building. Attendance will not fulfill training requirements - information only.

NEW BUSINESS: On March 24 Pam and Mike attended the Planning Board meeting for a brainstorming session on updates to the Town Ordinance. Pam prepared a list of 9 topics this board consistently struggles with, especially with regard to lakefront properties. Specific cases were cited. Marianne distributed copies of the draft minutes from the joint session. There was also discussion of possible in-house training that would benefit both boards.

EAGLE CREEK MARINA: Kevin asked Larry if this project will come before the Zoning Board. Larry states there has been no formal request for Certificate of Occupancy. Mr. Freemesser is making progress, but not at the rate the Town would hope to see.

PUBLIC HEARING, 7:15 p.m.: 09VAR02, Application by Kludt Brothers Inc, for a front setback variance to erect a grain storage bin adjacent to existing grain storage bins at 1165 West Kendall Rd., per Article V, Section 512 of the Town Ordinance. Pam read the legal notice. Kevin notes the setback is not specified on the application. Larry states it is 42 ft from the edge of the road. It was noted the concrete pad has already been poured - Matt states it is larger than the 72 ft. diameter of the structure. Mike requested to know the height of the structure. Matt states it is 56 ft to the top of the peaked roof of the grain bin and the dryer will extend above that. Pam requested public input. There was none. The 5 criteria in the Ordinance were reviewed and discussed. Mike expressed concern with the fall zone: is the town liable if it

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should fall onto the road. Gary states the bin is wider than it is tall and would crumble at the base and thus, not fall flat. Madalon Young lives directly across the road and had expressed concerns initially to her grandson Kevin Banker; both now agree it will not obstruct her view significantly more than the current structures. Hearing closed.

DECISION: Motion made by Kevin to approve the application for an 18 foot front setback variance for erection of a grain bin at 1165 West Kendall Rd. Seconded by Pat. Roll call vote resulted in all ayes. Motion carried.

PUBLIC HEARING, 7:30 p.m.: 09VAR03, Application by David Schuth, for a front setback variance of 58 ft as measured from the centerline of Kenmor Rd for purpose of creating a parking area for storage of a camping unit per Article VI, Section 625E of the Town Ordinance. Pam read the legal notice. Larry recommends changes to the application: because a survey map was not available, he and Dave both measured multiple times, now resulting in a request for a 50ft variance. Mike asks the width of the Right Of Way: 24.75 ft. The Schuth home is situated 89 ft from the road, more than most homes located in the hamlet. All homes in the hamlet were grandfathered-in at the time of adoption of the Ordinance. Pam asked David why he would not want to move his camper further back from the road, noting that it currently is parked very close the road and screened by shrubs and trees. The site was chosen to avoid the septic system and children's play area. The proposal will create a turnaround, so they can pull out onto Kenmor Rd rather than backing out of the driveway. The only other feasible parking space for the camper is in the current driveway. The lot slopes to the east. Drainage is poor at rear of property.

Neighbor Mary Jo Jenks states she prefers the current location because the new parking area will block her view of her children in Schuth's play area. No other input from the public.

Kevin noted that the majority of camping units in Town do not conform with the Ordinance, so why is Dave concerned with compliance now? Dave feels his position on Town Board Council makes him more visible and therefore, he wishes to comply with the code. He had approached CEO Scott Hardenbrook in the past, who felt there was no need to address it unless there was a complaint. Dave since approached new CEO Larry Gursslin, and after discussion, decided to apply for the variance. Larry states that as a part-time CEO, he has to focus attention on complaints and Town Board directives. Supervisor Gillman noted the Town is trying to promote a pleasant, clean, safe environment for all. It was noted that decision on this application sets a precedent. Considerable discussion. Pam cited the Ordinance regarding camping units. Dave acknowledges the family will sleep in the camper on extremely hot summer nights, as they have no air conditioning in the house, but not for long durations. Pam states this board does not wish to prohibit visiting out-of-town-family members from using campers for temporary habitation, but will not allow "camp ground" situations. David states his intent is to create a level parking area for storing his camper securely on his own property. Gay notes this is not a unique situation, and therefore, this board should be dealing with many of these variance requests. Pam states this board considers each variance request on a case-by-case basis. Gay expresses need to revise the Ordinance. Kevin agrees, as wording is too ambiguous to be enforceable. Hearing closed.

DECISION: The 5 criteria were cited from the Ordinance and reviewed and discussed. The general feeling is that relocation of the camping unit will be an improvement to the neighborhood. It was noted that

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several members of this board are also owners of camping units. Again noted, all applications are considered individually. Gay moved to accept the variance application as written for a 58 ft front setback variance (not revised to 50 ft). Seconded by Kevin. Roll call vote resulted in all ayes. Motion carried.

CODE ENFORCEMENT: Larry expressed his frustration over extra work and uncertainty when working without engineered drawings, but also noting there are situations, such as tonight, in which the expense seems unwarranted. However, Larry is uncomfortable with making decisions without engineered drawings. Supervisor Gillman has identified 3 pages of specific properties throughout the town that he wants addressed by the CEO in regards to property maintenance concerns, which will generate a number of variance applications for this board.

Pam asked for the Building Code regarding house numbers. Answer: 5 inches high in contrasting color, visible from the road, not to be on the mailbox, not Roman numeral or script.

Mike asks Larry how he determines setback measurements. Larry says he goes by what the applicant tells him. Property lines are a starting point, working from centerline of the road.

On further discussion, Larry states he cannot enter a property that is posted. He is taking photos as he drives around the town and researching records for variances and trying to determine why variances have not been issued in some situations. Larry now agrees with this board that all construction on pre-existing non-conforming structures requires a variance, and he will revisit some situations in which he may have issued a building permit without a variance. Kevin cited a case in which a surveyor placed a post in the wrong place and a house was constructed using that marker, resulting in delayed construction and higher bank fees for the homeowner.

Dave informs Larry he notices what appears to be an older mobile home on property on Route 18 near Transit Rd. He recalls this board disallowing a mobile home on that property. Discussion followed. Very few mobile homes were grandfathered-in prior to adoption of the Ordinance. Marianne produced a copy of 07VAR12, variance application by James Albert Burr, July 2007 to place a 1986 single-wide mobile home at 15679 Roosevelt Hwy. Application was denied. Larry will follow up. He is currently working with the town's attorney to remove a mobile home from a Kendall Rd property that is in disrepair, is not habitable, and detracts from possible sale of the property. Further discussion.

ADJOURNMENT: Pat moved to adjourn. Mike seconded. All in favor. Meeting adjourned at 8:40 p.m.

NEXT MEETING: Tuesday, April 19 at 7:00 p.m.

Respectfully submitted,

Marianne Wilson
Recording Secretary