

TOWN OF KENDALL
ZONING BOARD OF APPEALS
MEETING MINUTES

Tuesday, June 8, 2010 – 7:00 p.m.

CALL TO ORDER: Board Member Kevin Banker called the meeting to order at 7:07 p.m.

ROLL CALL: Kevin Banker, chair - present
 Gay Smith - present
 Pamela Rowles - present
 Tony Cammarata - present
 Patrick Bolton - present

ALSO PRESENT: Paul Hennekey, Deputy Code Enforcement and Zoning Officer
 David Schuth, Town Board Representative
 Paul Gray, Planning Board Chair
 Daniel Gaesser, Town Supervisor
 Joyel Miesner, Recording Secretary
 James Gaylord, 2369 Petersmith Road
 Jacquelyn Mosher, 2369 Petersmith Road

APPROVAL OF MINUTES: Minutes from May 11, 2010 were reviewed. Pam moved to accept with corrections. Seconded by Gay.

COUNTYLINE ROAD

Kevin mentioned that Countyline road does not have a public right-of-way to the lake. Discussion took place about public right-of-ways to the lake.

POLE BARN

Kevin presented a map of a Lakeland Beach drive property. Kevin discussed a letter Larry had sent to the owner of the residence. The owner was given permission by code enforcement to build a pole barn on the west end of the property. The owner erected the pole barn on the east side of the property. Larry is concerned that the barn has encroached the five feet setback. Kevin said that Larry's measurements showed that the barn was about three and a half feet inside the setback area. Larry has asked the owner of the property for clarification and proof that the barn is in compliance with the five-foot setback rule. Discussion took place about the property map and the time in which the barn was built.

WIND ENERGY SYSTEM

Kevin discussed a pending application for a special use permit for a wind energy system on Carr road. Kevin discussed how the planning board has been working with the owners of the property, Mr. and Mrs. Akey. The planning board is working with the Akeys to reduce the amount of variances that would be required to construct a windmill on their property. Paul Gray presented a Bing map of the Akeys property and described the location of the neighboring properties. Paul Gray described the original plan that was presented to the planning board by the Akeys. He described the various variances that would have been required for the original plan. Paul Gray presented and discussed a worksheet used to

identify the potential need for wind energy system variances. Paul Gray presented a picture of the proposed windmill and described the size. He said the windmill would be cone shaped with 16-foot diameter at the front end and an eight-foot diameter at the blade end. Paul Gray discussed the design of the windmill. Paul Gray said that the windmill design presented by the Akeys was much lower than the wind energy systems studied by the planning board to create the wind energy ordinance. Paul Gray stated that the tower height proposed by the Akeys was to be 22 feet. He discussed the different windmill models used by the planning board to create the ordinance. Kevin asked if the Akeys planned on purchasing additional property to meet the acreage required by the ordinance. Paul Gray said correct. Paul Gray said the Akeys were adding an additional 225 feet in depth. He said the lot would now be about 550 feet in depth and the acreage would be three and three quarters. He discussed the variances still needed by the Akeys after adding the additional acreage. Paul Gray said the system was below the required height and would need a height variance. The ground clearance is 25 feet the required is 35 feet. Paul Gray said the Akeys would be placing the system toward the center of their lot preventing the neighbors from seeing it. Paul Gray discussed regulations that previously needed variances, but were now met. Kevin asked Paul Gray if the planning board would change anything about the ordinance based on the new technology presented Wind Tamers. Paul Gray responded that he would like to talk with the town board about making another classification for small systems. Paul Gray said he would not change the noise or distance ordinance for smaller systems. Kevin asked how the planning board derived the distance the blades should be from the ground. Paul said it was based on a safety requirement that prevents climbing and ice being dangerously flung from the blades. Kevin asked if this model was the only one with an enclosure. Paul said it was the only one he has seen. Windmills with blades on a vertical axis were discussed. Discussion took place about the energy out put of wind energy systems. Discussion took place about the warranties and repairs on wind energy systems. Paul Gray mentioned that the zoning board might be presented with a second variance from the Akeys. He said the variance would pertain to a problem with the residential ordinance. He said the intent was for neighboring property to be 500 feet from center of the wind tower, but the ordinance reads 500 feet from the fall zone. Paul Gray said this error would be corrected in the future. Paul Gray mentioned that the variance would have to go to county planning board along with the towns application. Kevin asked if the application and variance could go simultaneously to the county planning board. Paul Gray said yes. Kevin asked if Mr. Akey had begun filling out the permit. Paul Gray yes. Discussion took place about the timeline for a variance hearing.

TOWN BOARD REMARKS

Dave said he had attended the county planning board meeting in which the town board presented the regulations for the junk law ordinance and container ordinance. He said the county planning board agreed with the ordinance and loved the time the town planning board had put in to it. He mentioned that the county planning board said it was very precise and very direct. Dave said the county planning board was concerned that the ordinance may be a little to direct or a little to restrictive. Dave said the intent of the town planning board was to be direct and resistive upon direction of the town board. He said the goal of the ordinance is to try and get the town cleaned up. Dave said that the county planning board

made recommendations on textual changes. He said that at the next meeting the town board would establish a public hearing date and make a recommendation that the public review the document. The town board would like to adopt the law in August 2010. Paul Gray said he would send copies of the documents to the zoning board members. Paul Gray discussed the comments made by the town attorney and said that the law went from being vehicle focused and more junk focused. He discussed modifications with the container and junk law terminology.

Dave discussed the improvement that had been done in the courtroom. He said the monies for a majority of the improvements came from a town justice security grant issued by the state.

REPORT FROM CODE ENFORCEMENT

Kevin asked Paul Hennekey if he knew of anything that would need the attention of the Zoning Board in the near future. Paul Hennekey said that he did not know of any.

PLANNING BOARD MORATORIUM

Paul Gray discussed the setbacks for the lake view, lakefront, and hamlet properties in the Town of Kendall. Proposed lake view set backs mentioned were; a side setback of 15 feet, a rear setback of 20 feet, and a front set back of 30 or 35 feet. Set backs will be from the center of road or a right-of-way. Paul Gray said the planning board has proposed that accessory structure on the lake be five percent of the lot size and be capped at 1,200 square feet. He also said the planning board is proposing that lakefront properties have a five foot side setback on one side and a 12 foot side setback on the other side to allow maintenance and safety vehicles access to the lake. A proposed hamlet set back mentioned was 35 feet from the road. Paul Gray said the planning board might also look at fences and swimming pools in these areas. Kevin asked about the deadline on the moratorium. Paul Gray said the deadline was January 2011. Kevin asked if generators were considered an accessory structure. Paul Hennekey say no they were not. Kevin asked if generators were subject to setback requirements. Paul Hennekey said he would have to look the information up. He said there was something in the code about generator placement.

Dave discussed a meeting planned by the state. The state will discuss state regulations on external wood burners.

PUBLIC PARTICIPATION

Jacquelyn Mosher asked how the public would be notified about the junk law regulations. Kevin discussed the process that takes place for a law to be made. Dave said that the proposed law would be made available for public review in the town clerks office and on the Town of Kendall website. Kevin said that the public notice for the hearing will be in the Hamlin Clarkson Herald and posted on the bulletin board in the town hall. Dave described the purpose of the junk law document and gave a summary of what was in the document.

TRAINING

Kevin discussed up coming training sessions. He mentioned a training session would be held in Niagara County on June 16, 2010. Discussion took place about other training session that would be held in July 2010 and in the fall of 2010.

NEXT MEETING

Tuesday July13, 2010 at 7:00 pm

ADJOURNMENT: Pam motioned to adjure. Seconded by Gay. All in favor. Adjourned at 7:57 pm.

Respectfully submitted,

Joyel Miesner
Recording Secretary