

TOWN OF KENDALL
PLANNING BOARD
MEETING MINUTES

June 23, 2009 – 7:00 p.m.

CALL TO ORDER: Chairman Gray called the meeting to order at 7:00 p.m.

ROLL CALL, MEMBERS:

Paul Gray, chairman	- present
Tom Cole	- present
Phil D'Agostino	- present
Joyce Henry	- present
Walt Steffen	- present

ALSO PRESENT:

Paul Hennekey, Code Enforcement Officer II
Larry Gurslin, Code Enforcement Officer I
David Schuth, Town Board Representative
Marianne Wilson, Recording Secretary

Pat & James Duset, 16592 Carr Rd
Lisa & Dave Stenshorn, 1714 Kendall Rd
Mark & Jill Groves, 16588 Carr Rd
 , 650 Cook Rd, Hamlin
Don Short, 16821 Bald Eagle Dr
Mike Holzer, 904 LaDue Rd, Brockport
Marcia & Tim Mayes, 16782 Carr Rd
Mary & Richard Jewsbury, 16566 Carr Rd
Dixie Mayes, 16681 Carr Rd
Brad Ferries, 16608 Carr Rd

APPROVAL OF MINUTES: Minutes from May 26, 2009 were reviewed. Tom moved to accept with one minor change. Seconded by Phil. All in favor.

Board Members introduced themselves.

TOWN BOARD: Dave Schuth stated the resolution was passed to pay \$8,425 (not to exceed this amount) to General Code over a 3 year period to implement the Codification program. First payment is due about 1 month after the contract is signed. Final payment will be due about 1 month after final documents are received. The LWRP and Master Plan will not be included, as they are stand-alone documents that change independently from the Ordinance. They can be added later if funds are available. All documents will be entered under one review.

Banner Beach Road dedication: Some residents have come before the Town Board to inquire as to the status. Attorneys are involved. Tom asked if the road will be up to code before dedication. He suggests the Town Board examine the Major Subdivision regulations. A couple homeowners are not in agreement, but all others wish to proceed. Joyce stated that she understood the road did not need to be moved, but the ROW does. The road is wide enough for plowing.

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PUBLIC HEARING: 7:15p.m. 09SP01, Mark Groves, 16588 Carr Rd, requesting Special Use Permit to operate an auto repair shop for friends and family. The public notice was read by the secretary. Paul asked Mark Groves to explain his intent. Larry requested to go first. Larry stated that, as CEO for the Town, he took action to summons Mr. Groves into court last night for what he views as an auto shop operation, which is in violation of the code. There are a number of cars. No proof of money exchanging hands. Decision is postponed until August 3 to determine what exactly is occurring. Meanwhile, he feels it needs to be legalized. Mark states he is not seeking permission to run an auto shop; it would be a multi-step process. If it is a hobby, Larry needs agreement with the Planning Board as to what is acceptable; how is the property being used; how to bring it under compliance. Mark states he does not have time to run a business. He already has a business in Rochester. Some friends work on cars on the property. He sometimes drives a dump truck home as part of his business. He has applied for a permit to fence in the yard.

Paul Gray asked how many vehicles have actually been repaired this year. Mark states he only did 1 in the past 2 weeks. They are often gone camping in the summer. He has a compressor in an insulated building. Tom Cole asks if there is any compensation, whereupon Jill Groves stated it is mostly family and they work on the vehicles together. Tom asked if the only reason they applied was because of complaints to Code Enforcement. Larry said yes, but upon Larry's review, the homeowner states it is not a commercial business, just a hobby.

Larry stated that for 2 years there have been complaints regarding: noise, cars trailered in, cars without plates. The property is zoned Rural Residential. The town has no hobbyist permit. How can a property owner use their property without falling over into commercialization. Larry and Mark reviewed the requirements for a repair shop. The lot is not large enough. Minimum distance is 200 ft from a residence. The Zoning Board would have to be convinced to allow that. Planning Board would have to put restrictions on any operation. Tom asked if they still want to continue this application process. The Groves state they wish to withdraw their application.

Since there is no longer an application to review, the hearing was closed. Tim Mayes asked to speak. Tom Cole answered that all complaints will have to be directed to the CEO. Joyce asked regarding the process for withdrawal. Paul requested the Groves put it in writing, which they did. Larry states it is unfortunate it came to this point. No public input can be entertained at this point, as the matter is no longer before the Planning Board. The hearing is closed at 7:30 p.m.

Motion was made by Phil to accept the withdrawal of the application. Seconded by Joyce. All in favor.

ORLEANS COUNTY PLANNING BOARD: Phil attended the last meeting. There were 3 referrals, all were accepted with minor conditions: repair shop, restaurant in Medina, private airport in Yates. Orleans and Genesee counties will be holding a joint training session, accredited by NYS.

ONGOING WORK: SEQR process will be reviewed in September. Paul received some Zoning Maps from Jim Bensley. Jim emailed Joyce today with water line data for Master Plan mapping. A second map will show RA and Hamlet district dimensions. Discussion on comparison of maps. Paul will follow up with Jim. The ultimate goal is to have the new maps on-line.

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Lisa Stenshorn asked if a resident outside Town of Kendall has complaints regarding a Kendall property, what is their recourse. Tom stated they can be heard but the final say lies with the Ordinance. Lisa feels Larry did not give guidance or the Groves would not have followed this process. Lisa obtained a copy of the ordinance so they could read and understand it. Dave Stenshorn says Orleans County GIS is not up to date. Paul states Orleans County would not use GIS to update zoning maps. The Planning Board encourages preview meetings. In this case, the Groves would have been advised against this application process. Paul says we will try to improve the process.

CODE ENFORCEMENT: Larry has received application from Don Short, 16821 Bald Eagle Drive, for a 48 feet wind tower. Larry states he has procrastinated since the original application, waiting, in part, for a tape map. No wind towers are allowed in WR district; therefore, he cannot apply for one. Larry suggested Mr. Short come to the Planning Board tonight to discuss why it is excluded.

Fall zone radius of a tower is +200 feet. LWRP concerns impact on scenic view. Paul tells Larry the LWRP is about 10-15 years from the time of its initial start. Commercial wind systems were not a consideration then. Even in 2004/2005 they were not a consideration. He finds it hard to believe there would be anything in LWRP regarding wind towers. No copy of LWRP was immediately available to review. Mr. Short states the energy push and tax incentives available caused him to consider this idea. He intends to install the tower south of his existing barn, well back from the lake. There are telephone poles along the road. The barn's peak is 35 feet. It would have to be above the barn and trees. It would not degrade anyone's view. It would likely not even be visible from the parkway in summer. He is surprised at the restrictions, at how prohibitive the law is. It is simple, unobtrusive, 2.3kw, 12 ft blades, single pole. It would cover about 50% of his personal use. Joyce asked regarding the ROW for the parkway. Mr. Short and Larry guess it is roughly 400-500 feet of marsh before the parkway. Paul states the wind energy law was a 4 year process; it was adopted in September 2008 by the Town Board. Mr. Short may have a copy or it is available on the town website. Towers are disallowed in Waterfront Residential district. Mr. Short asks if there are avenues by which it can be changed. Tom asks if he could apply for a variance. Larry states he is seeking legal opinion from the town's attorney. Tom states he could also appeal to the Town Board. Mr. Short states the cost of installation is relatively cheap. Tom says they did not foresee the drop in cost. Larry states the Shorts' property is unique to the waterfront district. His lot is very long and narrow and situated at the very end of the road, next to commercial property. Paul states they did not consider individual properties; the majority are narrow lots. Dave Schuth asks if the site is viable for wind energy. Mr. Short says the general average wind speeds make it a good location. Tom asks if he has considered solar: one resident is installing a solar system. Joyce provided a copy of the wind energy document. He thanked the board for listening.

EAGLE CREEK MARINA: Larry issued a Stop Work Order a week ago for code violations. He attempted to reestablish do/don't communication with Mr. Freemesser. He asked a vendor to exit the building. Contractors working on the structure are acceptable but no other persons are to be inside the building. It is not open to the public. Mr. Freemesser has verbally requested a CofO. For the most part, he is working on items from 2 months ago. He does not focus on 1 item and complete it. He provided a map of the septic system. Need Dept of Health written approval. Still think he is months away from opening. About 1/3 of the site plan would need to be complete for a temporary CofO. He must bring neighboring property lines into compliance. The Balkas were in for a dialog. They ask that he at least remove boats and other items from behind the barn; even the berm is not complete. In the case of the Kirches, a variance for a 6ft fence was approved. He could not make Mr. Freemesser pay for it, even

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though it should have been part of the site plan. Paul states they didn't think there was need to add to the existing vegetation at the time. Tom says the site plan did include landscaping but litigation precluded use of the architect's drawings and no new drawings have been received. Question was raised if it is a legitimate dead-end on Lakeland Beach Rd. Larry hears there maybe deeds stating they have legal beach rights. It was stated that previous owner Mr. Schepler allowed beach access to town residents. That has changed with subsequent owners. Joyce states most lakefront roads have ROW built in. Larry says he'll be viewing one next week. Dave says he thought Highway Superintendent Kruger had agreement with Mr. Freemesser regarding vehicle access. Tom says it maybe verbal, no plans have been seen. Paul says he would have to review minutes.

Larry says he is busy with building permits. Three court cases involving Henshaw, Smith, and Groves were postponed last night until August 3. It is primarily for junk cars. Regarding a refurbished commercial building on Railroad Avenue owned by Mike Hamlin, neighbors say he plans to run a woodworking shop. He is slowly converting half of it to living quarters and half to storage, so he says. There is no sign of a business now. Larry told him he will need a firewall if he does do something of this nature. Paul Hennekey asks if that property will be part of the rezoned district. No, only the Hofer property is up for rezoning. It was mentioned there are a lot of trailers on the Hamlin property. Paul states that Don Hofer is pursuing rezoning for DMD Machining; they have advanced money to the town to cover costs. Discussion regarding Home Occupation, which is an accessory use and does not require Special Use Permit vs Home Business in which people come to the house to make purchases.

OLD BUSINESS: Joyce is working on Master Plan inventory to update what already exists. It states 80% of town has access to public water – that doesn't seem accurate. Paul states if land is in Ag district, it cannot be tied into the waterline even when it is crossing that land, and 40% of land area in Kendall is Agricultural. Water District 1 is 20.5 miles but is in Kendall and Hamlin. Joyce questioned value of some information, such as size of water main. That information is crucial to firefighters and potential subdivisions. Dave says Warren very recently drew up new water district maps. Some hydrants have been relocated. Dave says when we rezone for light industry, the water district maps will also be updated. Joyce states 8.5 mph annual mean wind speed is sufficient for private home wind energy use.

NEXT MEETING: Tuesday, June 23, 7:00 p.m.

ADJOURNMENT: Phil moved to adjourn. Seconded by Joyce. Adjourned at 8:32 p.m.

Respectfully submitted,

Marianne Wilson
Recording Secretary