

TOWN OF KENDALL  
PLANNING BOARD  
MEETING MINUTES

July 29, 2009 – 7:00 p.m.

CALL TO ORDER: Chairman Gray called the meeting to order at 7:05 p.m.

ROLL CALL, MEMBERS:

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

ALSO PRESENT:

Paul Hennekey, Code Enforcement Officer II  
Marianne Wilson, Recording Secretary

Daniel Gaesser, councilman  
Howard Harper and fiancée, 2263 Center Rd  
Allen and Beverly Lofthouse, 2191 Center Rd

APPROVAL OF MINUTES: Minutes from June 23, 2009 were reviewed. Tom moved to accept with corrections. Seconded by Joyce. All in favor.

PUBLIC HEARING: 7:15p.m. 09SUB02, Howard J. Harper, 2245 Center Rd., application for one lot subdivision of property on Center Rd, south of Rt. 18, east side, tax ID 43.-1-58.11. A corrected public notice was read by Marianne. Introductions made. Paul reviewed reasons for holding the hearing. SEQR and Health Dept report were supplied by Paul Hennekey and copies distributed. Howard drew in the location of the well and leach field on maps provided, about 200 ft apart.

Paul provided copies to board members of a letter dated 11/17/2003 from OCPB to Ken DeRoller regarding flag lots. This property will not be a flag lot, as there is at least 200 ft continuous road frontage. It is possible to sell one lot on Center Rd and still maintain minimum road frontage. Discussion on ROW: Howard states it is actually 60 ft wide, as he obtained easements of 30 ft each from his father and his daughter Amy. Tom advised Howard the board needs an updated survey map diagramming location of proposed house and copies of deeds granting easements. The site plan needs to include location of any existing structures, well, and septic. Tom suggests tabling this hearing until the documents can be provided. A hand drawn, to scale, accurate drawing will suffice.

Howard states there will be no basement. The driveway will be straightened out to follow the easement. The driveway width is 20 ft, sufficient for vehicles to pass. Howard has discussed with Highway Superintendent Warren Kruger, who says the existing culvert is acceptable.

Joyce says she trusts that Paul Gray and the Code Enforcement officers will work the details out with Howard, so they will not have to postpone another month. Allen Lofthouse states he hopes the board will not delay action, as it becomes more difficult for Howard as winter sets in.

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DECISION: Joyce moved to accept the application with the condition that Paul Gray and Paul Hennekey review all documents, allowing Howard to proceed with the construction as soon as all documents are acceptable. Tom seconds the motion, with the following conditions added: 1) a new survey map with location of well, leach field, house, any other buildings, and driveway; 2) copies of driveway easements; 3) driveway will be at least 20 ft wide for emergency equipment to pass, at the discretion of the Code Enforcement office. No further discussion. Passed by unanimous vote.

TOWN BOARD: Dave Schuth is on vacation. Dan states he has nothing to say.

ORLEANS COUNTY PLANNING BOARD: Meeting was last week. Paul Gray noted that Ridgeway is amending their zoning maps. There were 3 referrals. Town of Kendall rezoning request for Hofer property was approved with 3 conditions: 1) completed Part I SEQR prior to final action by TOK town board; 2) zoning map shall be in accordance with the comprehensive plan; 3) TOK town board shall be satisfied this action will not conflict with any planned use of Morton Fire Dept. property. Joyce believes the Morton Fire Chief has documentation maintaining Right Of Way. The Hofer application was submitted by their attorney. Town of Kendall is the lead agency. Attorney Leone's addendum letter accompanied the application. Discussion of condition of the old cold storage structure. Planning Board now has to update the Master Plan. Dan asked about the property on the north side of the former railroad tracks which is zoned general business on the current Master Plan. Paul Hennekey states the property can have a home occupation, not a home business, unless the owner applies for a Special Use Permit. Purpose of a light industrial district is for assembly, storage, light manufacturing, precision machining, tool/dye, as per the Town Ordinance. General business district allows home occupation, retail, service, and residential 1 and 2 family structures. The minimum that can be rezoned is 5 acres. The property mentioned by Mr. Gaesser will not be included in this rezoning process.

Orleans County will offer training September 9 and 16 regarding SEQR process. Tom recommends an all day training at Williamsville Community College found in the Association of Towns publication.

CODE ENFORCEMENT: Paul says it is likely that Aaron Wolfe will apply for a one lot subdivision by next month's meeting. Larry is pursuing a number of situations. They are having difficulty tracking down some property owners.

Paul Gray related to board members that Don Short, who appeared at last month's meeting for a preliminary discussion for a residential wind energy system, applied to the Zoning Board of Appeals for a Use Variance. It was approved by the ZBA last week. The next step will be to apply for a Special Use Permit for installation of a wind generating tower. Paul Gray and Larry Gurrslin will meet with Don Short next Monday to follow up with next steps. The town's attorney and Jim Bensley concur that anyone can apply for a variance. Paul Gray says we will be looking at the site plan review to determine conformity with LWRP. Any application reviewed by the Planning Board must be sent to OCPB as it is within 500 ft of the Lake Ontario State Parkway. The restriction of no closer than 500 ft from off-site residences will require Mr. Short to go to ZBA again. As we do not have a site plan, it appears that five residences may fall within the 500 ft radius. A list of actions will be provided to Mr. Short for the application process. Walt inquired about the fall zone. Paul states that the tower was not spotted on maps provided. Fall zone discussed vs. proposed tower height of 48 ft. Fall zone is 150% of the height of the tower, less than 75 ft. Joyce states the president of the Home Owners Association was at the ZBA public hearing, and is in favor of this application.

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OLD BUSINESS: Mark and Jill Groves addressed a letter to Judge Ernenwein with copies to Paul Gray and Larry Gurslin regarding operation of a motor vehicle repair shop. They withdrew application for a Special Use Permit because it is a difficult process and that's not their intended use of the property. They stated there was work performed on trucks last year, but that is no longer being done. They intend to reduce the number of repair jobs. They say they have no unlicensed vehicles belonging to other people. They request charges against them be dropped. Code Enforcement will monitor the situation. Paul Hennekey says it seems to be more neighborly now.

Last month's meeting was unusual in that this board has never had an application withdrawn during a meeting, and admit to being caught off-guard. Paul Gray spoke with Jim Bensley, OCPB who says he never had one pulled during a hearing either. Jim noted the public notice states "all persons wishing to speak will be heard", thus public input must be allowed. Only one side of the story is now on record. The board can limit the length of time an individual may speak. Paul states the application was initiated after Larry received complaints, which brought code violations to his attention. The public hearing was an opportunity for Code Enforcement to hear from all neighbors. This board runs monthly meetings more informally, and is willing to hear from the public. It is the option of this board to accept public input, but the board does not have to respond to that input. It is an opportunity to receive information.

Paul unveiled a new color version of the 1996 Zoning Map prepared by Jim Bensley. It was noted the former pallet factory on Peter Smith Rd, now owned by the Moshers, was never rezoned for general business, which may have been overlooked. Records can be reviewed to see if it was in operation in 1992 when the ordinance went into effect. Pre-existing businesses were grandfathered-in. If more than 1 year lapses without operation, a business owner must apply for a Special Use Permit to resume operation. Paul Gray and Tom Cole will review the new map for errors and omissions. Finalized maps will be online.

Paul provided copies of the OCPB agreement with the Town exempting certain minor land use actions from referral to OCPB.

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

ADJOURNMENT: Joyce moved to adjourn. Seconded by Walt. Adjourned at 9:12 p.m.

Respectfully submitted,

Marianne Wilson  
Recording Secretary