

**TOWN OF KENDALL
ZONING BOARD OF APPEALS
MEETING MINUTES**

Tuesday, December 11, 2012 - 7:00 p.m.

CALL TO ORDER: Chairman Banker called the meeting to order at 7:01 p.m.

ATTENDANCE:	Kevin Banker, Chair.	- present
	Patrick Bolton	- present
	Tony Cammarata	- present
	Fletcher Rowley	- present
	Gay Smith	- present

Also present: Bruce Zaretsky, Bob and Mary McGonigal, Jack Fox, Jim Bonafini, Lou Caldarelli, Town Board Liaison Schuth, Supervisor Gaesser, Code Enforcement Officer Hennekey and Recording Secretary Bakutis.

APPROVAL OF MINUTES: Minutes from November 13, 2012 submitted by Recording Secretary Bakutis were reviewed. Tony Cammarata moved to accept the minutes. Seconded by Fletcher Rowley, all in favor.

OPEN POSITION ON ZONING BOARD: Chairman Banker informed the Zoning Board members that the Chairman position will be vacant. He has to leave the position due to his full time job demands. He can no longer put in the time that the Chairman position requires but he will still be on the board.

PUBLIC HEARING FOR VARIANCE REQUEST - TAX ID 343000 44.-1-18.1
Chairman Banker opened the public hearing at 7:15 p.m. He read the public notice:

Notice is hereby given that a public hearing will be held by the Zoning Board of Appeals of the Town of Kendall on Tuesday, December 11, 2012 at 7:15 p.m. at the Kendall Town Hall, 1873 Kendall Road, to consider the application of Caldarelli, regarding his property at 1783 Countyline Road, Tax ID 343000 44.-1-18.1. Applicant seeks a variance for a subdivision in RR (rural residential) district. Relief is being sought from Article V, Section 518, stating a 140 ft. frontage requirement. All persons wishing to speak about this application will be heard at this time. Application is on file in the Town Clerk's office.

Amy Richardson, Town Clerk
By Order of the Zoning Board of Appeals

Discussion took place between Mr. Caldarelli and Chairman Banker. No changes on application that was filed. Currently there is a residence on the one side of property which is the side of the property that owner is asking for the variance. It is 270 wide and Mr. Caldarelli is looking for 130 with the current residence property and 140 to stay with the other portion. Chairman Banker asked if that was correct and Mr. Caldarelli said yes

in order to stay in compliance. Intended purpose of dividing property is to build a house on it. Mr. Caldarelli plans on living in the new house which means he will be the closest neighbor to the existing property. Looking at the tax map average width now between properties is 164 feet. With this variance application we would be looking at an average of 151 feet if it was subdivided that way. It is 12.5% to 13 % roughly of variance requests compared to what is currently the existing conditions in that neighborhood. There are several lots adjacent to this lot that are non conforming as well. 50% of the properties are non conforming in this neighborhood. CEO Paul Hennekey said that Mr. Caldarelli agreed to maintain the 28,000 sq. foot with the non conforming parcel, he is going to go back 220 feet so the depth will still be consistent. Open discussion took place with public: Mr. and Mrs. McGonigal's wanted to know if the property was going to be a rental property, property owner said at this time not intended to be rental property. Chairman Banker showed Mrs. McGonigal documentation and explained the plans to her and told her it will be on record open to the public. Chairman Banker ended discussion closed public hearing at 7:29 p.m. and tabled application.

PUBLIC HEARING FOR VARIANCE REQUEST - TAX ID 343000 9.11-1-60.1
Chairman Banker opened public hearing at 7:32 p.m. He read the public notice:

Notice is hereby given that a public hearing will be held by the Zoning Board of Appeals of the Town of Kendall on Tuesday, December 11, 2012 at 7:30 p.m. at the Kendall Town Hall, 1873 Kendall Road, to consider the application of Hocking/Dalecki, 167021 Lomond Shores, Tax ID 343000 9.11-1-60.1. Applicant seeks a variance for a 3.5 foot fence in WR (waterfront residential) district. Relief is being sought from Article VI, Section 610 2.b., limiting fence height to 3 feet. All persons wishing to speak about this application will be heard at this time. Application is on file in the Town Clerk's office.

Amy Richardson, Town Clerk
By Order of the Zoning Board of Appeals

Everything is the same that was previous submitted at last variance except this time applicant asking for 3.5 fence height. Style of fence has not changed. They have letters of support from neighbors. Neighbors that would be affected would be from east, west and south sides. The neighbors from the east Mr. James Bonafini and west Jack and Kora Fox were in attendance. The neighbor to the south of the property which is located across the street was not present, Mr. Don Pierson, but wrote a letter of support. Property drops down 18 inches lower than the height of the access road, 2 feet visually. Neighbors say it will not block their view and they do not have an issue with the fence being 3.5 feet in height. The owners and contractor would like the rail height to be a minimum of 42 inches, because that really is the minimum for these dogs (whippets). Public participation from Jack Fox, stated that he and his wife just wanted to come and publicly voice their support for the granting of the variance. He did have a question for the contractor Bruce Zaretsky, from the diagram it looks like the fence is going to be right on or right next to the property line, he was just wondering what that distance was going to be? Mr. Zaretsky said he typically goes in 6 inches just to be safe. Mr. Fox said that is fine. Code says as long as it is on their property and can be maintained from their property without going to adjacent property. Mr. Fox said being the west neighbor he

and his wife would not have an issue with the zoning board granting a 6 inch line, because that's enough space in their minds and they are not concerned with applicants having to go on their property to maintain the fence. Tony Cammarata questioned the height of the fence, would the 3.5 feet be enough to keep these dogs in? Applicant addressed the question saying if the rail is at 3.5 which would be above the dogs paws, she believes it would work. Tony Cammarata said he called invisible fence and they do all kinds of breeds including the whippet breed, he also read what the whippet rescue society is saying which he believes to be very good factual data and he also heard what Mr. Zaretsky had to say that he indicated it depends on the personality of the dog. Which is why he is asking depending on the personality of these dogs is the 3.5 foot fence going to be enough to keep these dogs safe. The owners and Mr. Zaretsky really don't know, except that this height would be better than no fence. Chairman Banker closed public hearing at 7:48 p.m. and tabled application.

PUBLIC HEARING FOR VARIANCE REQUEST - TAX ID 343000 32.-2-13

Chairman Banker opened public hearing at 7:50 p.m. He read the public notice:

Notice is hereby given that a public hearing will be held by the Zoning Board of Appeals of the Town of Kendall on Tuesday, December 11, 2012 at 7:45 p.m. at the Kendall Town Hall, 1873 Kendall Road, to consider the application of Hennekey, 1682 Kendall Road, Tax ID 343000 32.-2-13. Applicant seeks a variance for front and side setbacks in RR (rural residential) district. Relief is being sought from Article V, Section 518, requiring 90 ft. frontage and 25 ft. side setback requirements. All persons wishing to speak about this application will be heard at this time. Application is on file in the Town Clerk's office.

Amy Richardson, Town Clerk
By Order of the Zoning Board of Appeals

Chairman Banker asked Mr. Hennekey what he intends to do. Mr. Hennekey said he would like to add a porch to the house, it would be 89 feet on one corner of lot. North side currently has a bedroom and a little mudroom and would like to put a garage next to that and a mudroom to the front, would like to maintain the light to the window on the north side of the bedroom. Would like to move the garage forward to that window so he can keep that window in that room. Right now he is at 97 feet back on that corner. Mr. Hennekey is asking for 80 feet frontage. The side setback right now is about 40 feet and would like to go at least 22 feet wide. Chairman Banker asked Mr. Hennekey if he can put it on back side of house. Mr. Hennekey said no because his septic comes right off of that north jog and south side of house only has 21.5 feet. This is the only place he can put it. Mr. Hennekey also said he is far enough away from the intersection. Chairman Banker closed public hearing at 7:59 p.m. and tabled application.

Chairman Banker and Zoning Board members discussed the appropriate criteria for each variance, reviewed documentation submitted by applicants and voted with the following results:

12VAR06 (Caldarelli) - Gay Smith motioned to accept variance. Seconded by Patrick Bolton. Chairman Banker called for a roll call vote with the following results:

ROLL CALL: Fletcher Rowley - Yea
Kevin Banker, Chair. - Yea
Patrick Bolton - Yea
Tony Cammarata - Yea
Gay Smith - Yea

12VAR07 (Hocking/Dalecki) - Patrick Bolton motioned to accept variance. Seconded by Gay Smith. Chairman Banker called for a roll call vote with the following results:

ROLL CALL: Fletcher Rowley - Yea
Kevin Banker, Chair. - Yea
Patrick Bolton - Yea
Tony Cammarata - Yea
Gay Smith - Yea

12VAR08 (Hennekey) - Tony Cammarata motioned to accept variance. Seconded by Fletcher Rowley. Chairman Banker called for a roll call vote with the following results:

ROLL CALL: Tony Cammarata - Yea
Patrick Bolton - Yea
Kevin Banker, Chair. - Yea
Fletcher Rowley - Yea
Gay Smith - Yea

Chairman Kevin Banker closed discussion on all public hearings at 8:14 p.m.

ZONING BOARDS ROLL ON APPROVAL PROCESS FOR TROUTBURG:

Supervisor Dan Gaesser introduced Attorney Chuck Malcolm to the board. Attorney Malcolm discussed Zoning Boards roll in the approval process for the Troutburg project.

Topics of discussion:

- Consistent Review and decree.
- Negative Declaration Part of SEQR.
- Local Permits
- Rezoning of 142 acres.
- Town Permits-Restriction of near shore permits (Wegman Group will need variance).
- Zoning Ordinance and Comprehensive Plan.
- Authorized Plan Unit Development - (Allows flexibility in zoning).
- Actual plan becomes the zoning law.
- Coastal erosion zoning law.
- SEQR has been done for this project.
- Negative determination has been done by Town Board.

Zoning Board has to review and make it's own consistency determination, evaluate project that has been given, review Towns Negative Declaration, Towns Consistency Declaration., plans and information specific to dock.

The county has to make a decision before the Zoning Board has to . Zoning board agrees to have it go to county first. January 24, 2013 is the County Board Meeting. Attorney Malcom discussed the Coastal Erosion Management Law and explained the plan Wegman Group is proposing. Kevin asked if there is a time line for their discussion. Attorney Malcom said Zoning Board has right to have all their questions answered and to be satisfied with everything.

ADJOURNEMENT

Patrick Bolton motioned to adjourn, seconded by Tony Cammarata. All in favor.
Adjourned at 9:03 p.m.

NEXT MEETING

January 8, 2013 at 7:00 p.m.

Respectfully Submitted,

Tammy Bakutis
Recording Secretary