

TOWN OF KENDALL
ZONING BOARD
MEETING MINUTES

Wednesday, April 23, 2008 — 7:00 p.m.

ROLL CALL: Members:

Kevin Banker, Chairman	- present
Pam Rowles	- present
Chuck Patt	- present
Mike Hanlon	- present
Gay Smith	- present

ALSO PRESENT: Larry Gurslin, Code Enforcement Officer
Jack Gillman, Town Supervisor
Marianne Wilson, Recording Secretary
Carol & Mike Diodato, 16941 Bald Eagle Drive
Brian McDermott, 16945 Bald Eagle Drive
Sheila & Alan Fry, 16937 Bald Eagle Drive
Eloise & Jeffrey Stevens, 16951 Bald Eagle Drive

CALL TO ORDER: Meeting was called to order at 7:04 p.m.

CODE ENFORCEMENT: Larry introduced Alan and Sheila Fry, 16937 Bald Eagle Drive. They propose to construct an addition to their home to within 3.3 feet of the west property line. Discussion followed. Variance application will be filed, for hearing in May.

APPROVAL OF MINUTES: Minutes of March 18 meeting were reviewed. Pam moved they be accepted as written. Seconded by Gay. Motion carried.

CODE ENFORCEMENT: Larry notes that most zoning issues that arise are on lakefront property. There are numerous conversions to larger, permanent homes on small lots. He tries to explain codes and explore options that will avoid the variance application process. Paul Hennekey has been appointed deputy code enforcement officer.

JUNK VEHICLE SURVEY: Surveys submitted to Larry. Mike stated that he adhered to town policy of 2 unregistered vehicles per property. Discussion of conflicting state and town law. This board feels the town ordinance needs to be updated. Larry appreciates the assistance of the Zoning Board members. This town does not have the issues that other towns do with junk vehicles, and he credits the diligence of this Board in that effort. New York State law is very detailed in regards to these regulations. Property owners are given 30 days to comply. A follow-up letter will be issued to those who do not comply.

Lemcke Property: Jack and Warren Kruger photographed and recorded VIN numbers on all vehicles on that property. Jack expresses his concerns with legalities and safety. Persons have been found removing items and have been instructed to leave the property. The court order stands. He wants to be sure the town proceeds properly. It will be brought to the Town Board meeting April 24 for further action.

PUBLIC HEARING: 7:15 p.m. Application 08VAR02, Carol and Michael Diodato, 16941 Bald Eagle Drive, parcel 11.13-1-56. Request for a 3 foot height variance for fence to surround an above-ground pool on south side of roadway.

The Diodato's state that they do not live at this address year-round and wish to heighten security by enclosing the pool area with a 6 foot fence to prevent access by young children and dogs. There will be a ramp up to a deck for handicap access. It will be attractively landscaped. There are 2 garages on adjacent properties, with the proposed pool inbetween. A 4 ft. fence is required by

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NYS law around the pool. The pool does meet code without the added fence. They simply want peace of mind for themselves and their neighbors. The proposed fence is black, and therefore blends in. The applicant's garage under construction will complement the house style.

Larry states that he interprets this property as one contiguous lot divided by a roadway – though at this time, it is 2 separate parcels on either side of the road. Larry also states that codes do not coincide with lot sizes on lakefront properties.

Kevin points out that the Diodato's could construct their pool inside an enclosed building, fully enclosing it, and there would be no need for this hearing. The 5 criteria were read and explained regarding a dimensional variance. Kevin asks Larry if an environmental impact study is required on all applications. Normally, a SEQR form is required. Pam states that she understands the desire for the 6 foot security fence, but hesitates to set a precedent, even though, in this case, the pool will be between 2 buildings. Gay requests Larry explain NYS law as regards pool safety: gates must self-close, minimum 36 inches high, latch on inside of gate; alarm on gate or a floater in the pool; alarm must be either in the house or outdoors (high winds are known to activate the alarms); ladder must be out of the pool when not attended.

Note: Chuck arrived at 7:35 and was briefed.

The five criteria discussed. Kevin feels the fence would not be noticeable between the 2 garages. The deck will be attached to the garage. The pool height will be 52 inches.

Neighbor Brian McDermott states the public notice did not clearly state what was being requested. He would not have attended if he'd known the nature of this request: it is not a concern to him. Kevin thanked him for the feedback. The Fry's live on the other side: they have no problems with this request.

Discussion regarding alarm: its purpose is to alert the homeowner. ATD would respond in their absence. Response time?

Mike pointed out that the more restrictive law takes precedence - which would be more restrictive: the town's 3 ft or the state's 4 ft fence? He feels this is not a reasonable request. There was further discussion of decks/ramps/fencing. The Diodato's original request last year was to put the pool between the house and the lake. There was opposition to that request and the variance application was withdrawn.

Pam disagrees with Mike in this case, as it is not a year-round home, and given the height of the pool itself, and being situated between 2 garages that already block any view there might be. The lake view is preserved. In viewing properties on that road, many have structures on the south side of the road, in efforts to retain the lakefront view.

Pam moved to accept the requested 6 foot variance. Seconded by Kevin. Further discussion. Chuck wonders if he should abstain since he missed the first portion of the hearing. Gay states she would like to see plans that demonstrate the change in height. Mike feels legal input is needed and would like time to check with the town attorney.

Mike moved to suspend the decision. Seconded by Gay. Agreed upon by unanimous roll-call vote. Mike agreed to contact the attorney and deliver written response at the next meeting. Jack supplied the attorney's phone number.

The Diodato's were instructed that they may proceed with pool construction and stay in contact with Larry. Hearing closed at 8:05 p.m. Will reopen at May 21 meeting.

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Larry states that consistency in granting variance applications becomes the standard. New York state can direct a town to rewrite their code to reflect what becomes "community standards".

MAY & JUNE MEETINGS: Kevin states that he has conflicts the next 2 regular meeting nights. It was agreed to change meetings to May 21 and June 18.

TRAINING: Gay asks input from members as to what is most useful of the workshops being offered. Helpful reading materials and online New York state sites were provided.

TOWN OF KENDALL ORDINANCE: This board strongly recommends the Planning Board and Town Board review the current ordinance for contradictions to state law and building codes. There are known road frontage discrepancies; public right-of-way, etc. NYS does not define "view". Issues arise with vegetation, which is not addressed in the ordinance. Jack states that he will meet with Larry, Kevin, Paul, and Assessor Gene Massey regarding updating the ordinance.

LEGAL NOTICES: It is requested that all future public notices so state: "For further details, contact the Town Clerk's office". So that people might learn more details about a public hearing.

WATER DISTRICT #6: Asked for details from Jack. It will run from Murray town line north to Christensen property located south of Carr Rd. Pipe has been delivered. The cost is approximately \$70,000 more than the grant. There was inflation from the time quotes were obtained 3 years ago until grants applications were made last fall, and some expenses were not included. Another grant application will be made. Jack states he is working on extension of the gas line north on Kendall Rd to Banner Beach and Lakeland Beach Roads. There is need for upgrading from 104 north, so it is not clear at this time if RG&E will grant the extension.

ADJOURNMENT: Mike moved to adjourn. Seconded by Gay. Motion carried. Meeting adjourned 8:50 p.m.

Next meeting is Wednesday, May 21, 2008.

Respectfully submitted,

Marianne Wilson
Recording Secretary