

TOWN OF KENDALL
ZONING BOARD OF APPEALS
MEETING MINUTES

August 19, 2008 7:00 p.m.

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

ROLL CALL: Kevin Banker, chair - present
 Pamela Rowles - present
 Michael Hanlon - absent
 Charles Patt - present
 Gay Smith - present

ALSO PRESENT: David Schuth, Town Board Representative
 Marianne Wilson, Recording Secretary

Barbara and Robert Thulin, 2 Lighthouse Beach Rd, Hilton
Linda and Dick Windhauser, 409 Bennington Dr, Greece
Edward Czerniak, 82 County Line Rd, Kendall

MINUTES: Minutes of June 8, 2008 were presented. Motion made by Gay to accept them as written; seconded by Chuck. All in favor.

CODE ENFORCEMENT: CEO and Deputy CEO not present.

NEW BUSINESS: Mr. and Mrs. Robert Thulin, owners of 2 parcels on Norway Heights, one being #17147 on the lake side, the other situated on south side of roadway, spoke with Kevin earlier and Kevin advised them and prospective buyers, the Windhausers, to attend this meeting. The properties were purchased in 2003/2004. Approval was obtained from DOH for a septic system to accommodate up to a 1250 sq.ft. single story home. They then consulted the Assessor who advised they speak with the CEO, Scott Hardenbrook at that time, who gave them verbal approval to build on the lakefront lot. They later decided to sell, without having constructed the home. The Windhausers' attorney advised them to obtain written confirmation that it is an approved building lot before completing the sale. The lot is 60 feet wide and 175 feet deep. Larry Gurslin tells them he isn't sure it is an approved building lot, as the frontage is less than 100 feet, as stipulated in the Zoning Ordinance.

Much discussion regarding initial subdivision of the lakefront property, in 1956. No structure existed on the property when the town Zoning Ordinance was adopted. The Ordinance does not define a building lot. Setbacks discussed. A hand-drawn plan was presented - they do not wish to pursue the cost of professional drawings until the lot is approved for building. The depth is ample. Septic is not a consideration for this board: it was already approved by the DOH. The plan is to build in line with existing homes. The Windhausers' attorney advised them to follow the application process.

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Kevin advised both parties that the Ordinance is open to interpretation, and therefore open to differing opinions. The attorney is requesting a letter of commitment from Larry so they can close on the purchase. If Larry denies the requested letter, they can file for a Zoning Variance. The Thulins would apply for the Variance, which would carry over to the new owners. If they want a more concrete response, they are advised to consult with the Town Board. The Zoning Board cannot act without a decision from Larry. Kevin read the applicable town law that grants the Zoning Board of Appeals the authority to overrule Larry's decision. Dave stated that NYS regulations change over the years and noted that Scott was CEO for approximately 20 years while Larry is new to Kendall, and thus, differing opinions are to be expected.

Ed Czerniak recently purchased 1821 County Line Rd. He wishes to add another bay to the existing 2-car attached garage to house antique cars. Due to placement of the septic system, he is unable to build anywhere else on the property. Larry advised him that he would not be able to build to within 5 feet of the property line, as he proposes. Ed believes Larry classified the property as being in the hamlet district. The 1996 maps were consulted. The property is designated Rural Residential, requiring a side setback of 25 feet, as per Section 402. It was noted the Ordinance could have changed since the house and garage were built. Mr. Czerniak will need a 10 foot variance to build as planned. It was noted that each case that comes before this board is unique. Mr. Czerniak was advised as to what he needs to bring to the CEO to apply for a Variance. He hopes to be prepared for a hearing at the September meeting.

TRAINING: Dave noted the Fall Workshop scheduled for September 24 consists of 3 sessions for a total of 4 training hour credits. Discussed carpooling to cut costs.

WIND ENERGY DRAFT DOCUMENT: Last Thursday's public hearing was discussed. The Zoning Board only has jurisdiction to change setback requirements. It was noted that the town incurred the cost of dismantling an abandoned wind tower at the corner of Center and Carr roads. Few (minor) changes are expected prior to the town board meeting August 28. Dave says it is easier to back off on regulations than to add to them after the fact. It was noted the Planning Board has authority to adjust for each individual application. Hamlin resident Jerry Borkholder complimented the Kendall Planning Board on the quality of the document. The town's attorney is to write resolutions to present at August 21 public hearing. Decision will be made at Town Board meeting August 28.

EAGLE CREEK MARINA: Dave says progress is slow. Mr. Freemesser has begun making monthly repayments to the town, which are held in an account, from which the Town benefits from interest earned. That money is earmarked for Economic Development Improvement. Dave states there are 17 points in the Special Use Permits for the marina.

The Kendall Fire Department's new fire truck will arrive Saturday morning. Senator Maziarz and Assemblyman Hawley will be in attendance. Consult the new edition of the

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Town of Kendall newsletter for details.

ADJOURNMENT: Chuck moved to adjourn. Seconded by Pam. All in favor. Meeting adjourned at 8:37 p.m.

NEXT MEETING: Tuesday, September 16 at 7:00 p.m.

Respectfully submitted,

Marianne Wilson
Recording Secretary