

TOWN OF KENDALL
PLANNING BOARD
MEETING MINUTES

July 22, 2008 – 7:00 p.m.

CALL TO ORDER: Chairman Gray called the meeting to order at 7:06 p.m.

ROLL CALL, MEMBERS:

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

ALSO PRESENT:

Larry Gurslin, Code Enforcement Officer
Marianne Wilson, Recording Secretary
Amy and Jeffrey Conte, 97 Buckman Rd, Rochester, NY 14615
Jennifer Passarell, 16674 Kenmor Rd, Kendall

MINUTES: Minutes from June 24, 2008 meeting were presented. Joyce moved to accept with corrections; seconded by Walt. All in favor.

PUBLIC HEARING: Application 08SUB01, submitted by Amy and Jeffrey Conte, requesting single lot subdivision of property owned by Roger and JoAnn Herman on Kendall Road at Woodchuck Alley, Tax I.D. 21.-1-10.1. Introductions were made. Documents complete with SEQR, DOH septic approval, survey map, deed, and new drawings provided tonight.

Paul explained process and responsibilities of the Planning Board pertaining to flood plain designation, in this case Bald Eagle Creek, which runs through the property. High water mark must be taken into consideration. The surveyors did not think it was in a flood plain. Tom and Larry consulted the flood plain map and determined this property does not appear on the map: Bald Eagle Creek flood plain designation does not extend south of the Lake Ontario Parkway. The property is about 29 feet above the creek. There will be some build up to accommodate the septic system. The parcel is 22.11 acres. The house will be aligned with the Zingler house on the adjacent property to the south.

Kendall Road is a state/county road. The Contes are advised to check with Warren Kruger, Highway Superintendent regarding driveway culvert and placement. Larry asked if the Fire Department is involved in determining length of driveway. Answer: A 1,000 foot driveway requires a turnaround or it must be wide enough for 2 vehicles to pass each other (16 feet). Public Hearing closed at 7:34 p.m.

DECISION: No public participation and no input received. Tom moved to accept the application as submitted. Seconded by Walt. Unanimously accepted by roll call vote.

PRELIMINARY REVIEW: Jennifer Passarell owns property at 16674 Kenmor Rd, Tax ID 32.-2-41.1, consisting of 6 acres with a 2-family house. She wishes to separate the house from the acreage and combine that land with a 3.2 acre adjacent parcel. She states that she consulted with Scott Hardenbrook last year, who stated that she only needed to record it at the County Clerk's Office. Paul

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says Scott was technically correct, but this board is concerned with the possibility of creation of a non-conforming lot. The property is within the hamlet district. One parcel has 567.21 feet road frontage, and the other 300 feet. With 200 foot depth, there is sufficient property to create 3 lots. The current driveway will be relocated, as it now floods - Warren Kruger will advise regarding best location. Kendall Fire Dept performed a controlled burn on a barn on the 6 acre parcel. The house has been converted to 2 units. The proposed subdivision would not create a non-conforming lot. It does comply with the Town Ordinance. No public hearing is required.

OLD BUSINESS: Paul distributed copies of the New York State realty law regarding the definition of subdivision. Discussion followed on county and town laws/ordinances. Paul read the Town Ordinance regarding minor subdivision. Tom suggests consulting with Jim Bensley, as we have no precedent in the case presented by Mr. Bahamonde last month. As yet, there are no improvements to the properties. If the intent of the Town Board is that every subdivision comes before the Planning Board, a new resolution would be required. Ag district designation allows a tax break to the farmer and is revised every 8 years, basically granting a "right to farm". Paul will send a letter to Mr. Bahamonde advising him that he does not need to apply for subdivision with this Board and that these parcels must be sold as not approved building lots.

CODE ENFORCEMENT: Larry revisited the Scarpulla property and again discussed the in-home bakery business. He states that his initial thought was that it was not in violation of the Town Ordinance. He sought legal opinion of the Town's Attorney. The bakery falls under home occupation. Mr. Scarpulla claims to have a DOH certificate to prepare and serve food, though Larry has not seen it. Food is being taken to other businesses, making him a supplier. A delivery truck is seen regularly at the property. Discussion regarding what constitutes a business: advertising by signage, newspaper, business card, webpage. What if he refuses to come before the Planning Board for Special Use Permit. No more than 40% of the gross floor space can be utilized for a home occupation.

Larry has encouraged Mr. Freemesser to put more manpower into the Eagle Creek Marina project to bring to completion. Larry is working with the bank and the engineer. A joint inspection took place June 20. They were looking for an itemized check list to obtain a Certificate of Occupancy. Larry is proceeding cautiously. Still need firm understanding of the outside parking configuration. Larry assisted with requirements for handicap parking and signage. Discussion regarding a Temporary CofO: sprinklers on all 3 floors would have to be operable; all amenities in place; adequate lighting; must be safe; would not have to be painted, nor flooring in place (though that seems a deterrent for a restaurant). Mr. Freemesser has made the first payment to the Town. Final approval from the Planning Board has never been granted. Final stamped drawings have not been received - No CofO will be issued without them. Larry will convey to this board all drawings and dates that he possesses. Larry and Paul will meet again.

Joyce asked Larry for his opinion regarding the town issuing permits for temporary storage, such as pods and trailers. Larry states that he views them as sheds; not to be located in front yards; none in the hamlet or waterfront districts; in other districts these units are normally utilized as intended. Licensable vehicles include but are not limited to: trailers, boats, boat trailers, cars, trucks, RV's. Larry designed the Town of Hamlin's temporary permitting process, to accommodate family members on military duty, health situations, etc. A red sign is placed on the vehicle. It can be renewed.

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ORLEANS COUNTY PLANNING BOARD: Phil and Paul did not attend last month due to Town of Kendall special work session on wind energy. Paul discussed our draft document with Jim Bensley, which is on the agenda for this Thursday's meeting, as is Carlton's. Clarendon will be adopting a new wind energy law. Fall workshop agenda topics will be discussed; suggestions should be given to Paul.

TOWN BOARD: No representative present. No report.

WIND ENERGY DRAFT DOCUMENT: Currently 39 pages. LaBella's and Jim Bensley's feedback have been incorporated. Many changes. Special Use Permit applies to the property and carries over to new owner if property sells; new owner would be required to apply for renewal, with proof that the system is generating energy. Contact Paul with any grammatical, spelling, punctuation changes. Once the OCPB approves the document, the Town can post it on the town website. LaBella's review of the document is billed at \$540. Town of Murray spent \$10,000 to have theirs written by Attorney Spitzer. Public hearings will be held August 14 and 21, as advertised. Members advised to be present to answer questions and receive feedback. Paul is the authorized editor of this document.

OLD BUSINESS: Town Board requests Zoning Ordinance updates on property maintenance issues. Joyce has been unable to reach the CEO in Town of Gaines. Town of Clarendon is faxing a copy of their ordinance. Lyndonville and Murray will mail theirs. Joyce feels Town of Albion's is too comprehensive for our use. She hopes to have them by the next meeting. As to a Noise Ordinance, there is no local law, only state and county. Farmers have the right to work and that creates noise.

CORRESPONDENCE: Board members are given the opportunity to take part in the Town's retirement system. All should have received letters. It is retroactive.

ADJOURNMENT: Phil moved the meeting be adjourned; seconded by Paul. All in favor. Adjourned at 9:39 p.m.

NEXT MEETING: August 26 at 7:00 p.m. Phil will be on vacation August 23-30 and not in attendance. Paul will be on vacation July 30 to August 14.

Respectfully submitted,

Marianne Wilson
Recording Secretary