

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

**April 13, 2021 at 7:00 p.m.**

ATTENDANCE:	Chair. Patrick Bolton	- present
	Fletcher Rowley	- present
	Becky Charland	- present
	Shad Speer	- present
	Dan Mattle	- present

Also present: Brian Harper and Chris Geogiadis, NextEra, (DG New York III, LLC.), Code Enforcement Officer Hennekey and Recording Secretary Bakutis.

Public: Brian Wakefield, 1323 CountyLine Rd.  
Bob McGregor, 1909 W. Kendall Road  
Michael Furness, 1879 Peter Smith Rd.  
Tom Munzert, Sr., 1119 Wayneport Rd, Macedon, NY 14502  
Tom Munzert, Jr., 1119 Wayneport Rd, Macedon, NY 14502

Chair. Patrick Bolton called the meeting to order at 7:03 p.m.

**APPROVAL OF MINUTES:**

Minutes from the March 9, 2021 meeting submitted by Recording Secretary Bakutis were reviewed. Dan Mattle moved accept the minutes as presented, seconded by Shad Speer. All in favor.

**PUBLIC HEARING FOR A VARIANCE (21VAR05) – TAX ID #33.4-1-11.1**

Chairman Bolton opened the public hearing at 7:16 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, April 13, 2021 at 7:15 p.m. at the Kendall Town Hall, 1873 Kendall Road, to consider the application of Brian Wakefield, 1323 Orleans Monroe County Line Road, Tax Parcel ID #33.4-1-11.1. Applicant is requesting a side setback variance of 10-feet from the required 15-foot setback distance for the construction of a 30' x 40' pole barn. The proposed final setback distance will be 5-feet. Applicant is seeking relief from Article V, Section 265-21 E(1)b, requiring a 15-foot setback. Property is zoned Residential Hamlet (RH). All persons wishing to speak will be heard at this time. ALL current COVID-19 restrictions regarding public gatherings will be in effect. A copy of the application is available for review by contacting the Town of Kendall Clerk's Office at (585) 659-8721 or the Town of Kendall Code Enforcement Office at (585) 659-2341. If unable to attend, written comments and/or questions regarding the application may be submitted by mail to the Town of Kendall Code Enforcement Office, 1873 Kendall Road, P.O. Box 474, Kendall, New York 14476 or by e-mail to [codee@townofkendall.com](mailto:codee@townofkendall.com). All comments must be received by 4/9/2021. Please provide your name and address in the comments. All written comments received will be read aloud during the meeting and recorded. The recorded proceedings and minutes will be available for

review after the meeting, at a date to be determined. All persons wishing to speak will be heard at this time. Application is on file in the town clerk's office.

Patrick Bolton  
Chair, Zoning Board of Appeals

Applicant was asked to explain to the board why he was seeking a variance. He explained the leaching field is behind his house and he would like to stay as far away from that as possible and the left north corner there is a tree in the way. Shad asked how far the leach field is from the house? The applicant explained where the 41-foot comes off the back of the house is where the pipe comes out and the tank/box is 10 to 12 feet off that, sits between the house and the tree. Dan Mattle asked about a tree south of the property, the applicant stated it was removed when he remodeled the house. Fletcher Rowley asked if there was going to be an access driveway due east going towards County Line Road, the applicant said yes, originally when the lot was constructed there was already a colvert pipe installed.

Chairman Bolton closed the public hearing at 7:21 p.m.

The Zoning Board members discussed the appropriate criteria for the variance, they reviewed the documents submitted by the applicant. Fletcher Rowley motioned to approve the variance, seconded by Dan Mattle. All in favor. Chairman Rowley asked for a roll call vote with the following results:

<b>21VAR04(Wakefield) – ROLL CALL VOTE:</b>	Dan Mattle	- aye
	Becky Charland	- aye
	Shad Speer	- aye
	Fletcher Rowley	- aye

**APPROVAL GRANTED:** For a side setback variance of 10-feet from the required 15-foot setback distance for the construction of a 30' x 40' pole barn. The proposed final setback distance will be 5-feet. Applicant is seeking relief from Article V, Section 265-21 E(1)b, requiring a 15-foot setback. Variance is unanimously approved 4-0.

**PUBLIC HEARING FOR A TAX ID #31.-2-27**

Chairman Bolton reopened the public hearing for the NextEra Energy, DG New York III, LLC., variance regarding road frontage, from the April 13<sup>th</sup> meeting, he asked if anything has changed or is there anything new that he would to present to the board. Brian Harper with NextEra Energy told the board they tried to reach out to some of the property owners to gain access and none of those have been fruitful to date, so they are just applying for the original 40-foot of the required 140-foot road frontage. The board members had a discussion in regard to the original variance. The board feels the variance request is substantial, the lot is too narrow for the trucks that need to be entering and exiting the site. A property owner to north of this

property had to get ten more foot of road frontage to comply to build his house. The members do not want to waiver from the road frontage stipulation. Chair. Bolton asked if anyone had anything to add, Brian spoke and said their looking to access the site in a different way and he felt the variance will still be needed no matter what path they take forward. He feels it puts them in a sticky situation if they get denied this variance and have to go to neighboring properties, from a negotiating standpoint. Chair. Bolton asked for a roll call vote for the variance request as it stands, with the following results:

ROLL CALL VOTE:	Dan Mattle	- nay
	Becky Charland	- nay
	Shad Speer	- nay
	Chair. Bolton	- nay
	Fletcher Rowley	- nay

VARIANCE DENIED: For a variance of the 40-feet of frontage of the required 140-feet to access property located on W. Kendall Road, Tax ID #31.-2-27. Variance is unanimously denied 5-0.

**NEW BUSINESS:**

CEO Hennekey informed the board he has two possible variances, one is an addition in the Coastal Erosion Hazard Area located on Bald Eagle Drive and the other is for construction of a pole barn, on Norway Road and the south side of Bald Eagle Drive.

**ADJOURNMENT:**

Dan Mattle made a motion to adjourn, seconded by Fletcher Rowley. All in favor. Meeting adjourned at 8:22 p.m.

**NEXT MEETING:**

Tuesday, May 11, 2021 at 7:00 p.m.

Respectfully Submitted,

Tammy Bakutis  
Recording Secretary