

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

May 11, 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: Town Board Liaison Newell, Deputy Code Enforcement Officer Strong and Recording Secretary Bakutis.

Public: Scott Worthan, 1032 Norway Rd.
Cindy and Gary Zin, 16887 Bald Eagle Dr.
Don Pfister, 16903 Bald Eagle Dr.
Steve Lyon, 16891 Bald Eagle Dr.
Andy Engelbert, 16860 Bald Eagle Dr.
Bob McGregor, 1909 W. Kendall Rd.

Chairman Bolton called the meeting to order at 7:04 p.m.

PUBLIC HEARING FOR A VARIANCE – TAX ID #11.13-1-40.1

Chairman Bolton opened the public hearing at 7:06. 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, May 11, 2021 at 7:00 p.m. at the Kendall Town Hall, 1873 Kendall Road. The purpose of the public hearing is to receive public comment regarding an area variance request submitted by Scott Worthan. The applicant is requesting to construct a 14' x 24' accessory structure at 1032 Norway Road, Tax Parcel ID #11.13-1-40.1. The variance request is from the requirements of section 265-28A and 265-28 6 E (1). The applicant is requesting to place the accessory structure in front of the primary structure foundation line. Property is zoned Waterfront Residential (WR). 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. All comments must be received by 5/6/2021. 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.

Patrick Bolton
Chair, Zoning Board of Appeals

Applicant was asked to explain to the board why he was seeking a variance. He expressed to the board he understands the code, but believes his property is unique due to the fact it has two fronts, the house is quite a distance from the lake so the majority of his property is considered the front, so if he were to put it equal to or behind the foundation he will either block the view of his neighbor across the street on Bald Eagle or the neighbor to the west, he's sure his neighbor wouldn't want to look out and see a building or step out of his front door because it would run right along his front driveway along the property line. To the east is Norway Rd. and his property is at a dead end so there's no immediate neighbors and it wouldn't obstruct anyone's view. Shad informed the applicant he went down there and noticed there was trees and bushes along Norway Rd. and questioned if the neighbor had any water view. The applicant said that would be the neighbor to the east and no they do not have water views due to the house being set forward quite a bit from his. The applicant will also be planting vegetation.

Public comment: Deputy CEO Strong presented a letter to the board from the neighbor on the east side of Norway Rd. stating he had no concerns with the applicant's request.

Chairman Bolton closed the public hearing at 7:10 p.m.

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

21VAR06 (WORTHAN) – ROLL CALL VOTE:	Dan Mattle	- aye
	Becky Charland	- aye
	Shad Speer	- aye
	Chair.Bolton	- aye
	Fletcher Rowley	- aye

APPROVAL GRANTED: For a variance to construct a 14' x 24' accessory structure in front of the primary structure foundation line. Applicant is seeking relief from the requirements of Section 265-28A and 265-28 6 E (1). Variance is unanimously approved 5-0.

PUBLIC HEARING FOR A VARIANCE – TAX ID #11.13-1-13

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, May 11, 2021 at 7:15 p.m. at the Kendall Town Hall, 1873 Kendall Road, to consider the application of Gary Zink, 16887 Bald Eagle Drive, Tax ID #11.13-1-13. Applicant seeks a variance for construction of an addition within the Structural Hazard Area. Seeking relief from the Coastal Erosion Hazard Area, Chapter 59, Section 59-10B, prohibiting the construction of a major addition to an existing structure within the Structural Hazard Area. Property is zoned Waterfront Residential (WR). 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.

Patrick Bolton
Chair, Zoning Board of Appeals

Applicant was asked to explain to the board why he was seeking a variance. He expressed to the board he retired here because he liked the location, but the house is small and would like to add on. His architect Joe O'Donnell, Greater Living Architecture, P.C. gave the board a summary of the proposed construction saying the existing structure is about approximately 1300 sq. feet. They are proposing to nestle in a new family room addition adjacent to the existing family room that will be converted to the master bedroom. They also want to expand to the east approximately 8-feet for a total of 704 square feet total for the project. They are also proposing a covered patio heading north on the property from the proposed family room addition, so the total addition towards the lake will be approximately 11-feet and then the proposed addition on the east side aligns with the existing garage wall and will be just over 5-feet from the property line per New York State building code. He also reached out to the D.E.C. and they indicated there will be no D.E.C. permits necessary for this project, the fact that they are not disturbing more than an acre, therefore they do not need a storm water construction water permit. Joe prepared the five standards stating the essential character of the neighborhood, obviously it is a residential structure and blends in well to the adjacent structure and the existing house. He feels there is no other remedy going towards the lake and the way that the D.E.C. has redefined all the coastal erosion areas and flood plains has reduced the ability to expand their residence, so he doesn't feel the proposed addition is significant mainly because the proposed family room is shield by the existing family room, so it already fits into that corner. There will be no physical environmental encroachments, odors, foul smells, noise, etc. Joe along with the board members and Deputy CEO Strong reviewed the instrument survey maps for the site and discussed coastal erosion, etc. The board asked the architect to revisit the criteria for the coastal erosion hazard area. The placement of the addition on the existing site is proven and makes the most sense because it minimizes the impact on the footprint of the entire house on the site. No wetlands, flows of water, or natural vegetation has been disturbed. They are 18-feet above lake level and there is a significant break wall at the beach front. The proposed size of the structure family needs is in scale with the existing structure. No public funds are being utilized. An email from Beth Gillard's with the D.E.C. indicates they do not need to be involved and this is a very simple, straight forward application, but it is up to the town of Kendall.

No public comment.

Chair Bolton closed the public hearing at 7:30 p.m. The five criteria were already reviewed and discussed. He asked for a motion to approve or deny the variance application. Shad Speer motioned to approve the variance, seconded by Fletcher Rowley. All in favor. Chairman Bolton asked for a roll call vote with the following results:

21VAR07(ZINK) – ROLL CALL VOTE:

Dan Mattle	- aye
Becky Charland	- aye
Shad Speer	- aye
Chair. Bolton	- aye
Fletcher Rowley	- aye

APPLICATION GRANTED: For a variance for construction of an addition within the Structural Hazard Area. Seeking relief from the Coastal Erosion Hazard Area, Chapter 59, Section 59-10B, prohibiting the construction of a major addition to an existing structure within the Structural Hazard Area. Area variance is unanimously approved 5-0.

PUBLIC HEARING FOR A TAX ID #11-13.1-6

Chairman Bolton opened the 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, May 11, 2021 at 7:30 p.m. at the Kendall Town Hall, 1873 Kendall Road, to consider the application of Andrew Englebert, 16860 Bald Eagle Dr., Tax ID #11-13.1-6. Applicant seeks a variance for construction of a 3,600 sq. ft. pole barn on property with an existing barn in excess of 1,200 sq. ft. Requesting a variance from Article V, Section 265-28 F. (8)(b) allowing a single detached barn at 1,200 sq. ft. maximum. Property is zoned Waterfront Residential (WR). 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.

Patrick Bolton
Chair, Zoning Board of Appeals

Chair. Bolton expressed to the Englebert's the issue at hand is your allowed one structure of 1200 square feet and they want to add an additional structure of 3600 square feet. The Englebert's agreed and Mrs. Englebert told the board that they have a unique piece of property, it is just under eight acres, it's big, there's a lot of room. Right now, they have a two car garage that fits one car, kids toys and bikes. They also have a barn which houses their two horses, feed, bedding, and a tractor. She expressed to the board their family is big and they have seven personal vehicles, and two boats. The boats are what they would like to store in the new structure, so everything is not sitting outside. Mr. Englebert said the existing barn has some historic value, but age wise when the wind blows it could go and if that should happen, they won't have nothing. Chairman Bolton asked wouldn't it be worth it for them to rebuild the current structure and fix it up? Mrs. Englebert responded saying it's as fixed up as can be, they had someone come in and add extra beams, there is just not enough room, the horses take up half the space and the tractor is in there also, they can't even fit the lawn mower in there. She told the board that is why they want to put up this garage, she explains the garage would be 40-foot wide and the last 20-feet, meaning 20-feet out on each side and have that like an overhang that they would like to add solar panels to. Their house, current garage and barn go north and south, she doesn't think solar panels would be very effective. They were thinking of putting them on the back of the new garage. Becky asked will it just be used for storage and Mrs.

Englebert said yes, the boats, lawnmower, cars, things like that, no equipment from the existing business, that's ran out of another location. Chair. Bolton informed the applicants the board received a letter from one of the neighbors and summarized it saying the neighbors realize the Engelbert's have a non-conforming structure greater than 1200 sq. ft. and that they want to build another structure three times what the Town of Kendall code allows, their big concern is will there be any traffic due to the business, construction vehicles, etc., because it is a private road that everyone has to pay for maintenance such as plowing, etc. The neighbor also expresses that they strongly object to the building of the new barn if it is in anyway used for the business. If however, he stores only personal items they would not have a problem with it at all. Chairman Bolton told the applicants, the situation they are putting the board in is going against the town's code. They had another case he believes in the same neighborhood, where they had to have the applicant tear down the structure, the applicant had to build to meet the towns code. He feels if they make an exception here it will undo everything they have done and try to do. They try to follow the letter of the law and code. The Engelbert's told the board no one can see it from the road because their lot is so big. Member Rowley said it's unfortunate that they have such a nice lot, but they must follow the code. What C.E.O. Strong wants the board to take in consideration is when he pulled the real property record it shows the current barn the applicants are referring to is 1800 sq. ft. and was built in 1878, they're also asking to build a 3600 sq. ft. barn which puts the total up 5400 q. ft where only 1200 is allowed. It's already a non-conforming structure, you cannot add to a non-conforming structure.

Neighbors of the applicants told the board they do not have a problem with the Engelbert's building the structure and they always keep their property looking nice. Member Mattle explained if they could add to the existing structure, they would only have one variance. C.E.O. Strong explained to the applicants there isn't really a standard for waterfront property lots, there is a minimum lot size, but not a set standard for the town. The Engelbert's property is lakeview, not waterfront. Town Board Liaison told the board when he was on the planning board, and they wrote the code they were referring to a typical size lot and industrial structures being built.

The board feels the variance should be tabled at this time. He asked for a motion. Shad Speer motioned to table the variance to have more time to gather more information. Seconded by Fletcher Rowley. All in favor. Chair. Bolton closed the public hearing at 7:58 p.m.

TOWN BOARD UPDATE:

Town Board Liaison discussed rentals in the town, mainly down by the lake.

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, June 8, 2021 at 7:00 p.m.

Respectfully Submitted,

Tammy Bakutis
Recording Secretary