

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

Tuesday, September 22, 2009 – 7:00 p.m.

**CALL TO ORDER:** Chairwoman Rowles called the meeting to order at 7:05 p.m.

**ROLL CALL:**

Pamela Rowles, chair	- present
Kevin Banker	- present
Michael Hanlon	- absent
Gay Smith	- present
Patrick Bolton	- present

**ALSO PRESENT:**

Paul Hennekey, Code Enforcement Officer II
Marianne Wilson, Recording Secretary
David Schuth, Town Board representative

Joe Rodrigues, 16177 Lakeshore Rd  
Joe Tomasino, 16183 Lakeshore Rd  
Patricia & Harold Barnard, 16205 Lakeshore Rd

**NOTE:** Marianne called the Board of Elections to discern if this meeting could be held on Primary Election day and was given approval, as none of the potential candidates are involved.

**APPROVAL OF MINUTES:** Minutes of 8/18/09 were reviewed. Kevin moved to accept with changes. Seconded by Gay. All in favor. Approved.

**PUBLIC HEARING:** 7:15 p.m. #09VAR07, Joseph and Heather Tomasino, 16183 Lakeshore Rd. application for side setback variance to construct an addition to the existing house on the west side. Property is zoned RA. The public notice was read by Pam. Applicant and three neighbors present.

Discussion regarding rear vs. side (west) setback. There was an error in the survey performed in 2005 which resulted in need for a variance in 2006 so the Tomasinos could purchase the property. This is the second variance hearing on this property.

After publication, it was determined the public notice was incorrect. Dave Schuth contacted the town's attorney to determine if the public hearing needed to be rescheduled. The attorney felt it is a non-issue, as it is still an area variance, with no major impact, resulting from a misunderstanding by the code enforcement officer. Unless there is strong opposition by immediate neighbor(s), proceeding with the hearing and re-writing the variance is allowable. Kevin states because the survey has never been challenged, it is the governing document. The bank accepted the variance approval in 2006. The map is known to be incorrect. Further discussion. Neighbors are supportive of the Tomasinos.

**DECISION:** Kevin moved to approve the application for construction of an addition, 16 feet by 35 feet, on the westerly wall of the residence as planned, granting approval for a rear setback variance of 22 feet. Seconded by Gay. No further discussion. Passed by unanimous roll call vote.

**NEW BUSINESS:** 2010 Budget planning. Pam has received a packet from the Supervisor but has not

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reviewed it. After discussion, board members felt they received a raise last year and will not request a raise for the coming year. Marianne noted that Recreation Department's 2010 budget is based on a 25 cent per hour raise for administrative support. Cost of the Codification System is to be shared. The Town Board has assured the Planning Board their 2009 budget balance will go toward this system. Normally balances are absorbed into the general fund.

Banner Beach Road dedication into town highway system will be an increased cost to the town. Kevin states that new maps will be needed. Dave states the HOA paid for resurvey. All but 2 owners signed the quit claim deeds. Pat asked what prompted the dedication of the road? Discussion of general condition of the road, access for school buses for increasing number of permanent residents, many years in the process, etc.

Based on numerous experiences and discussions, this board determines there is need for a prepared list of requirements for applicants that will assist the decision making process; something that can be handed out by Code Enforcement at the time of application. Paul states there should be time for an on-site inspection so that measurements can be taken to ensure accuracy, thus the timeline for application must be adjusted. Kevin states a scale drawing needs to be provided – it can be hand done on graph paper with ruler and accurate measurements - it does not have to be professionally prepared. The following was agreed upon. 1) Applicants shall provide scale drawing(s), 2) There will be on-site inspection & measurements by CEO prior to the hearing, 3) Paperwork will be reviewed by ZBA Chair and CEO prior to the hearing, 4) Applicants shall provide current tax map or tape location map, 5) CEO will provide applicants with copies of Ordinance pertaining to Variance application, 6) Adjust deadline for receipt of completed application packet for no less than 1 week prior to the Thursday deadline for publication.

**UNFINISHED BUSINESS:** Paul Gray and Pam discussed the Short's variance application. They agreed the application is still open and needs action. Pam spoke with Don after the last meeting but there has been no further contact. Considerable discussion followed.

**DECISION:** Kevin moved to deny the usage application 09VAR06, filed by Mr. and Mrs. Donald Short, 16821 Bald Eagle Drive. Based on town law section 267B, subsection 2B: The applicants did not demonstrate competent financial evidence that they could not realize reasonable return based upon permitted uses of the property in its current condition. Seconded by Gay. Passed by unanimous roll call vote.

Pat says he feels it was a mistake for the Shorts to apply for a variance. There was agreement and discussion. Shorts need to apply to the Planning Board. The Zoning Board Appeals only considers applications that have been denied by other departments; i.e., Code Enforcement, Planning Board.

**CODE ENFORCEMENT:** Paul reports he had a phone conversation with Zina Seaman Goodenberry. She and her husband are moving into the Seaman home and wish to dismantle part of the old store. It is a nonconforming structure due to proximity to the road. It was grandfathered in at the time of adoption of the Ordinance. It is now unusable. Paul is researching the situation. Currently assessed at \$7,500. They want to reduce the footprint and remove the second story.

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Paul also has been in contact with an owner on Bridge Rd about possibly building a new home on a property where the house burned years ago. Scott Hardenbrook had told him some years ago that he would not need a variance or sub-division to rebuild. Paul is researching.

Larry is pursuing citations for code infractions. There have been court appearances. Insurance money has been released to Marge Steffen for the house that burned on the corner. Larry has issued an order for demolition.

**EAGLE CREEK MARINA:** Larry issued a temporary Certificate of Occupancy.

**ADJOURNMENT:** Kevin moved to adjourn. Seconded by Pat. All in favor. Adjourned at 8:30 p.m.

**NEXT MEETING:** Tuesday, October 20 at 7:00 p.m.

Respectfully submitted,

Marianne Wilson  
Recording Secretary