

TOWN OF KENDALL
ZONING BOARD
MEETING MINUTES

May 20, 2007

CALL TO ORDER: Chairman Banker called the meeting to order at 7:08 p.m.

ROLL CALL: Members:

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| Kevin Banker, Chairman | present |
| Pam Rowles | present |
| Chuck Patt | present |
| Mike Hanlon | absent |
| JoAnn Herman | absent |

ALSO PRESENT:

Scott Hardenbrook, Code Enforcement Officer
David Schuth, Town Board representative
Marianne Wilson, recording secretary

Mike and Carol Diodato, 16941 Bald Eagle Drive
Tina and Russell Baxter, 2310 West Kendall Road
Douglas Frasch, contractor for Diodato's
Alan Fry, 16937 Bald Eagle Drive
Jeff and Eloise Stevens, 16951 Bald Eagle Drive
Penny Hoag, 16933 Bald Eagle Drive
Richard and Nancy Bauman, 16921 Bald Eagle Drive
Toni Mignemi, 16927 Bald Eagle Drive

APPROVAL OF MINUTES: Minutes from April 17 were reviewed. Pam moved the minutes be accepted as corrected. Seconded by Chuck. Approved by unanimous vote.

TRAINING: A seminar brochure was presented. Kevin suggested anyone interested in attending should seek prior approval from the Town Board for training credit.

CORRESPONDENCE: Letter received from Barry Flansberg addressing preservation of agricultural land in Orleans County, specifically targeting housing developments.

JUNK CAR SURVEYS: Per Scott Hardenbrook, Rick Seaman has visited all properties in violation. All parties cooperative. Letters sent giving 30 days notice to comply. Rick will follow up after May 24. The Town Board is aware of the New York State law that allows only 1 unregistered vehicle per property. Public notice will be required once the town revises its ordinance: currently in process. Possible adoption in June. New York State law defines more than 2 unregistered vehicles as constituting a junkyard.

NOTICE OF PUBLIC HEARINGS: More details will be included in the official public notices to specify what the application is for: i.e., swimming pool, addition, etc.

PUBLIC HEARING: 7:15 p.m. Consideration of application O7VARO7 for Tina and Russell

Baxter to add on to an existing garage at 2310 West Kendall Road, tax map no 42.-1-25.121, pursuant to Article 6, Section 680 and any related sections of the Kendall Town Ordinance. Neighbor's structures are well away from the lot line and far back from the road. There is a small hedgerow blocking the view. The property was surveyed last year. There are no changes to the application. There is no public input on this matter.

HOUSE NUMBERS: Scott succeeded in initiating an article in the Hamlin Herald regarding missing house numbers and need to comply with state law for emergency response.

PUBLIC HEARING: 7:30 p.m. Consideration of application O7VARO8 for Carol and Mike Diodato to install an above ground swimming pool at 16941 Bald Eagle Drive, tax map no 11.13-1-27, pursuant to Article 5, Section 560 and any related sections of the Kendall Town Ordinance. The application is revised to reference Article 6, Section 680 to address the front setback in addition to the pool. The Board addressed questions to the owners and their contractor. A 50 foot setback was derived from the measurements provided. The property is zoned Waterfront Residential. It is also in the Coastal Erosion Hazard Zone as designated by New York State. Kevin requested clarification on design of the deck: it is to extend down the sides of the house. Doug Fransch, contractor for the project provided photos. Discussed height of deck & railing, grading. The house has a full basement. High tempered glass is planned for railing material to reduce visual barrier. The glass panels are 4 ft by 8 ft. A 12 foot deck would be required. Scott states the minimum height of the pool sides is 4 feet. Intent is water therapy for a wheelchair-bound disabled daughter.

Discussion was opened to the public:

Eloise Stevens, 16951 Bald Eagle Drive. Lives 2 doors to the east. She also represents Brian McDermott who lives immediately next door and could not attend this hearing. He sent a notarized letter stating his concerns which included highlighted sections of the town's master plan. She also shared photos taken from her sunroom. Mr. McDermott and the Stevens are concerned with the obstruction of the lake view. Reference the Waterfront Redevelopment Program adopted and applied under Resolution 67 dated 12/3/2001, which addresses preservation of lakefront views.

Penny Hoag, 16933 Bald Eagle Drive. Lives 2 doors west. Feels it would be a distraction. Asks the Diodatos to consider utilizing their lot on the south side of the road instead.

Toni Mignemi, 16927 Bald Eagle Drive. Lives on the west side of Diodato property. She opposes this application as she feels it would impede the sunrise views. References the local ordinance restricting fencing height to 3 feet. Scott states the railing is a separate structure, dictated by New York State building codes.

Alan Fry, 16937 Bald Eagle Drive. He previously owned the Diodato property. He is a 30 year lakefront resident. States the sunrise view is beautiful and should be preserved.

Richard Bauman, 16921 Bald Eagle Drive. What is the line of demarcation in reference to the front setback on lakefront property? Answer: 60 feet from the high water mark. Any proposed structures within that zone require variance application. Also wonder who receives notification of public hearings. Answer: The law requires all adjacent and adjoining property owners within 500 feet receive notice. In the future, we will send notices to all property owners 2 houses in each direction of waterfront properties. The town clerk's office has all variance

applications on file and can read them over the phone to anyone wanting more information.

Jeff Stevens, 16951 Bald Eagle Drive. Concerned about the use of glass panels: birds flying into them, high winds, future replacement, and high maintenance. The pool must be secured for safety of children and pets, but is this an acceptable material? Scott says all pools in New York State are required to have motion detectors that are activated when there is a 50 pound water displacement, with alarms inside and outside the house. The Diodatos state they have a central security system that would alert the sheriff. Question of response time for deputies covering the entire county. The Diodatos expect to occupy the residence full time during the pool season. Only the north end of the pool would be high enough to not require a fence/deck. The glass panel may or may not enclose the north end of the pool, depending on finished grade. If the north end is higher than 2 feet, a safety barrier will not be needed. Scott cannot issue a certificate of compliance until all state and local requirements are fully met.

Kevin reviewed the 5 criteria from Section 832 of the Town Ordinance that must be considered by this board in the variance application process.

Mr. Fry states concern that glass panels cannot hold up in wind. New windows in his home shake in high lake winds. If those panels break, there would be flying glass.

Hearing was closed.

DECISION RE: O7VARO7, BAXTER: The Board has no further questions. No public opposition. Pam moved the application be accepted as presented. Chuck seconded. Roll Call Vote was unanimously in favor. Application accepted. Advised to see Scott for building permit.

DECISION RE: O7VARO8, DIODATO: The application is amended to include reference to Section 680. Kevin asked if the Diodatos have considered utilizing the lot across the road. Answer: Yes, but the septic system is located there, which would push the pool far to the back of the lot. They need wheelchair accessibility. The Diodatos stated this proposal was made to accommodate their daughter's physical needs. They were previously unaware of all the codes involved and never intended to upset their neighbors. Kevin asked if they could relocate the pool further to the east and closer to the house. Drawings reviewed with contractor Mr. Frasch. Kevin re-read the ordinance. More discussion on lot across the road: easement access, depth of lot, leach field location. Chuck moved the application decision be tabled for 30 days, until the June 20 meeting, to allow the Diodatos and Mr. Frasch opportunity to re-measure and consider other options. Pam seconded the motion. Advised they need minimum of 10 feet between the house and pool. They may be able to withdraw the application if they submit a plan that falls within the allowable limits. Roll Call Vote: unanimously accepted. Decision tabled until June 20.

NOTICES OF PUBLIC HEARINGS: In the future, all public notices for variance

applications will be mailed to 2 properties in all directions for waterfront and hamlet properties; 1 either side in remainder of the town. District zoning information available through the Assessor and/or Code Enforcement.

FARM LABOR CAMPS: Structures only are tax exempt; does not include any surrounding land.

NEXT MEETING: Wednesday, June 20 at 7:00 p.m.

ADJOURNMENT: Chuck moved the meeting be adjourned. Pam seconded. All in favor. Meeting adjourned 9:06 p.m.

Respectfully submitted,
Marianne Wilson
Recording Secretary