

**January 15, 2009
Zoning Board of Appeals Minutes
Oswego Town Hall**

Chairman: Greg Auleta
Board Members: Timothy Anderson, Robert Baker,
Robert Dexter, Debra Jaskula
Attorney to the Board: Kevin Caraccioli
Secretary: Joyce Molinari

Call to Order: The meeting of the Town of Oswego Zoning Board of Appeals was called to order at 7:02 p.m. by Greg Auleta, Chairman.

Attendance: Those in attendance were:

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| Greg Auleta | Chairman |
| Tim Anderson | Member |
| Robert Baker | Member |
| Robert Dexter | Member |
| Kevin Caraccioli | Attorney |
| Joyce Molinari | Secretary |

Absent:

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| Debra Jaskula | Member |
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Also in attendance:

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| Theresa Cooper | Town Clerk |
| Noreen Ruttan | New Secretary |

Acceptance of Agenda: The motion to accept the agenda as written was made by Robert Baker and seconded by Tim Anderson. All approved. The agenda was accepted.

Approval of August 21, 2008 Meeting Minutes: The motion to accept the minutes as written was made by Robert Baker. All approved. The minutes were accepted.

New Business - Annual Organization:

A. Approval of the Meeting Dates for 2009

Greg Auleta stated that the monthly meetings would be every third (3rd) Thursday of the month, thus the rest of the 2009 meeting dates will be:

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|-------------|---------|--------------|-------------|
| February 19 | May 21 | August 20 | November 19 |
| March 19 | June 18 | September 17 | December 17 |
| April 16 | July 16 | October 15 | |

Tim Anderson made the motion to accept the calendar. Robert Baker seconded. All ayes; the calendar was approved.

B. Election of Zoning Board Chairman: Robert Baker introduced the business of re-electing Greg to the position of Chairman. Tim Anderson made the motion; Robert Baker seconded. There were no objections; the motion was approved.

C. New Secretary: Greg welcomed and introduced Noreen Ruttan, who will be the new

secretary of the Zoning Board beginning on February 1, 2009, and thanked Joyce Molinari, who is resigning as of January 31, 2009, for her service to the Board.

Old Business: None

Open Board Discussion:

Discussion of proposed zoning regulations: Greg Auleta introduced the topic of the new proposed zoning laws, which will be presented at the Town Board Meeting on February 9, 2009, at 7:05 PM. Greg suggested that it would be helpful to the Zoning Board if the members would attend that meeting, in case there might be information and feedback, which would be relevant to the ZBA.

In addition he stated that the committee that worked on the proposed zoning regulations had responded to at least 200 or more corrections/suggestions. He gave credit to Robert Dexter for having the most suggestions and for having brought about the most changes in the entire document and to the whole committee for having gone over it very carefully, but he explained that there is still room for changes.

Theresa Cooper brought up some possible changes in the new zoning map that had been suggested by Francis Dellamano.

Kevin Caraccioli explained that the Town must have a public hearing and that the new code would be adopted as a Local Law under the Municipal Home Rule Law of the State of New York. However, if the public hearing brings about any changes of a substantial nature that would significantly change the document, then there must be a second public hearing before the Town Board can adopt the law. After it is adopted, it is filed in Albany and becomes Local Law, as opposed to an Ordinance. If it were to be done by Ordinance, the entire law would have to be published in the local newspapers. Also, there is no other record of it from a state level other than the record which is filed with the Town Clerk. Under Local Law it is filed in Albany with the Secretary of State, and to change it, the Town would simply adopt a Local Law, which would amend this particular Local Law, with no publishing requirement, but with a public hearing.

Theresa Cooper stated that the notice of the public hearing will be in the Palladium-Times, on the Town website, and on the signboard. The actual document will be available at the Town Hall and on the Town website for local residents to read. The map will also be available for viewing.

Kevin Caraccioli explained that once the Law is adopted, there will have to be actual legal descriptions of the boundaries of the various zoning areas, to go along with the map. The Town will hire a land surveyor to prepare these legal descriptions, using "meets and bounds" language.

Robert Baker suggested using GPS coordinates. Kevin agreed that GPS might work, but whatever method is chosen, the Town should work closely with the land surveyor.

Theresa pointed out that there is a question of how far back the zoning goes on a parcel which might be within more than one zoning district. Kevin explained that in order to avoid the problems that might cause, usually it is accepted that in such a situation, the use of the property in one zone can only be extended back fifty (50) feet (or some defined distance) into the other zone.

Discussion continued on the problems of parcels which fall into two (2) different zones, how the districts were created, the setbacks, and the inclusion of what was previously known as

Open (O) into the other zoning areas, thus eliminating the Open (O) category.

Kevin then read examples of what several different communities have done in determining the district boundaries:

Example 1. Questions concerning the exact location of district boundary lines as shown on the zoning map shall be resolved by the Board of Appeals.

Example 2. Where the district boundary line divides a lot of record, at the time such line is adopted the regulations for the less restricted part of such lot shall extend not more than fifty (50) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

Next the Board discussed the “grandfathering” of areas, which have been agricultural, but will now be in zones 2 & 3, which are residential districts. Kevin explained that normally the “Non Conforming” use provisions within a law basically say that if you have an existing use that predates the adoption or any modification to the zoning regulations, that it is permitted to continue as long as it is not abandoned for a period of twelve (12) months.

In discussing the map, Greg pointed out that certain areas (the overlay districts for agricultural, conservation, and the college) do not have anything to do with the Town’s zoning regulations. Those are huge expanses, which are arbitrary to the Town’s districts, and if you take those areas out, the zoning area boundaries do not look as capricious as it seems.

Board discussion continued on certain portions of the document, where members had questions or concerns, i.e.:

Article III, E (3). How does a violator correct a problem if he/she must cease work on the project?

Answer by Greg: This probably would not be considered an issue of substance. Something could be added to clarify, without a substantive change of the rule.

Answer by Kevin: Perhaps wording should be added that it would be at the discretion of the Code Enforcement Officer to allow the individual to put it in a safe condition.

Article V. If a special use permit is denied, is there a process to overturn that decision?

Answer by Kevin: Not within the Town. The party would have to file an Article 78 – a civil action, with the Supreme Court.

Article XII.e, B (3). What does “denial of an unapproved license” mean?

Answer by Kevin: Perhaps, rather than “unapproved license” it should say “pending license application”, which is not a substantive change.

Article XV., F. Why is the Highway Superintendent to be the local administrator?

Answer by Greg: Because these are similar to DEC and other kinds of rules, the Town cannot supercede State or Federal regulations. Therefore, what we have is boilerplate language, and it has to be decided who is going to administer this, so language was taken from the County regulations.

Answer by Kevin: The other rationale is that the Highway Superintendent and the employees who work in that area are the ones out on the roads who see the erosion and potential issues

dealing with flooding, more than anyone else in the Town.

Other discussion continued on the areas of typographical errors, pagination, and whether the new map will be included. Greg explained that there will be a map later, since at this point a reduced map is not sufficient. Also, Greg clarified that information about windmills is not included, as it has already been passed as Town Law, permitted in all areas except R-1. The Law includes engineering and spatial regulations such as fall zone, hooking it up, how high it must be - at least eighty (80) feet, of a particular type of construction, and a removal bond.

Robert Dexter brought up the question of why the district along the lake, which includes Rudy's, Johnny's Dockside, Bev's, and Sunset RV Park, was not corrected on the new map to be business, rather than residential, since some of the businesses have been there 70-75 years.

Greg said that he didn't have a definitive answer, and he wasn't sure that if the businesses were new, they would be allowed under DEC regulations, but, as it is, they would be grandfathered in, as long as they had not stopped being a functioning business for a period of twelve (12) months or more, as Johnny's Dockside has.

Adjournment: The motion to adjourn was made by Tim Anderson and all agreed. The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Joyce Molinari
Secretary to the Zoning Board