

**July 18, 2002**  
**Zoning Board of Appeals Minutes**  
**Southwest Community Center**

**Chairman:** Randy Pratt  
**Board Members:** Greg Auleta, Robert Baker,  
Brad Livesey, Greg Mills

**Call to Order**

The meeting of the Oswego Town Zoning Board of Appeals was held on Thursday, July 18, 2002. Randy Pratt, Chairman, called the meeting to order at approximately 7:00 PM.

**Attendance**

Those in attendance were:

Randy Pratt, ZBA Chairman  
Kevin Caraccioli, Legal Advisor  
Greg Auleta, ZBA Member  
Robert Baker, ZBA Member  
Brad Livesey, ZBA Member  
Shelley Rahn, ZBA Secretary  
Marcella Gibson, ZEO

Randy Pratt, ZBA Chair/Absent  
Robert Baker, ZBA Member/Absent  
Marcella Gibson, ZEO /Absent  
Don Dowd, CEO/Absent

**Acceptance of Minutes**

A motion was made by Greg Auleta to accept the minutes from the June 20, 2002 meeting. Brad Livesey seconded the motion. All ayes. Motion carried.

**First Order of Business**

**Public Comment Session**

There was none as no members of the public were present.

**Second Order of Business**

**Ordinance Committee Update**

Randy Pratt brought ZBA members up to date on the progress made by the committee. One member of the Town of Oswego Planning Board was present, however, he was late arriving. Members are requesting more participation by Planning Board Members and members of the Public. The Planning Board has been asked to consider changing the dates of their meetings in order to allow paperwork a faster and smoother flow through the various boards.

The flow chart was not discussed much. Mr. Pratt felt that not everyone understands the process and once it has become clear what each board's duties are, the flow chart will come together much easier.

Mr. Pratt pointed out to the ZBA his suggestion that an attorney be present at all committee meetings. His suggestion was out-voted by other committee members. It is Mr. Pratt's opinion that without an attorney present, not much progress can be made. It will be very important that the new ordinance be looked at critically as it will supersede the town laws that are currently in place (i.e. junk car laws, fence laws). Hopefully, the committee will begin to make progress very soon.

Mr. Auleta asked Legal Advisor, Kevin Caraccioli if he had reviewed the Hannibal Ordinance from which the committee is working. Mr. Caraccioli replied he had not. Mr. Auleta pointed out the Hannibal Ordinance's specificity and encouraged the committee combine the Town of Oswego's current ordinance with Hannibal's to produce something that the residents are comfortable with. Mr. Pratt reiterated his hope to get Mr. Caraccioli's presence at the Committee meetings.

The Planning Board has agreed to be the Lead Agency on SEQR, 239 and Agricultural Forms. The ZBA is to be carbon copied on the County 239 Forms from the Planning Board.

Legal advisor Kevin Caraccioli stated that ZBA could override the Planning Board's decision on SEQR forms dependent upon which board is ultimately determined to be the permitting board. If ZBA is actually issuing the permit, the ZBA should be signing off on the SEQR Form. Kevin Caraccioli also clarified the difference between an interested agency and an involved agency. An interested agency doesn't necessarily issue a permit, but has some interest in what's going on in that particular locality. An involved agency issues a permit. The Lead Agency is one that declares their willingness to be such an agency (i.e. Department of Environmental Conservation, Department of Transportation, ZBA or Planning Board).

Kevin Caraccioli expressed his desire to make up separate application packages for area variance, use variance, and special permits. Randy Pratt requested this be put on the agenda for the August 15, 2002 ZBA meeting. He requested ZBA members think about and present other items to be included in the packages such as reason for denial; plot plans; survey maps; blueprints.

The goal of the next committee meeting is to review the proposed ordinance through the definition section. The ZBA secretary is also the ordinance committee secretary. ZBA members are encouraged to bring to her attention any items/subjects they wish to be addressed by the ordinance committee. She will bring these items to the ordinance committee's attention. The secretary will email Greg Auleta the revisions to the definitions for his review.

Randy Pratt advised the Town of Oswego Comprehensive Plan has not yet been approved. The Town of Oswego is waiting for the maps to be returned from the County. Once it has been approved, everyone is to receive a copy, including the ZBA attorney. The Planning Board will be forwarding copies of their minutes to the ZBA and vice versa to open the lines of communication between the boards.

### **Third Order of Business**

#### **Legal Issues**

Kevin Caraccioli presented a revised version of the initial applicant letter. He has added the date the letter was issued and property location to the header of the letter. Mr. Caraccioli advised that according to the terms of the current Town of Oswego Land Use and Control Ordinance, the ZBA has the authority to issue special permits, use variances and area variances. He added these items to the letter and the secretary will indicate what the applicant has applied for. Randy Pratt wondered if sign permit should also be added. Greg Auleta pointed out that according to the terms of the current ordinance, signage was addressed under special permit. Kevin Carracioli agreed with Greg and quoted the ordinance under conditional uses "announcement signs incidental to the particular district as long as it doesn't exceed 2 square feet in R-2 district. In the R-3 district it can be 2 square feet no such sign shall be illuminated by more than 150 watts of sign lighting". Mr. Caraccioli concluded that a separate permit for signs was not needed. Signage is included under special permits. The board agreed to leave the three choices on the letter as special permit, area variance and use variance.

Robert Baker thought the letter implied that each application may or may not receive more than one review prior to the Public Hearing. Randy Pratt advised the review was a means for the applicant to be sure all the necessary forms and information were included and complete in the application package prior to the Public Hearing.

Kevin Caraccioli wondered when the initial review letter would be sent to the applicant. Randy Pratt advised the letter would be issued prior to the ZBA meeting as long as the application was received on or before the 10th of the month.

Robert Baker felt the reference to "62 days after the application is deemed complete" was confusing. Kevin Caraccioli felt it was presumptuous to assume the applicant will receive a Public Hearing at the next month's ZBA meeting. Randy Pratt advised whether or not the application is deemed complete at the review process, a Public Hearing will be held at the next month's ZBA meeting. Mr. Pratt advised if the applicant doesn't submit the materials requested by the ZBA, the ZBA has the right to dismiss the application, or table the Public Hearing until the next ZBA meeting. Kevin Caraccioli pointed out that the Town is responsible for placing a Public Notice in the newspaper of record, which costs the Town of Oswego money. If the applicant doesn't provide a complete application the board still has to move forward with something, he wondered if another notice would then be necessary. Randy Pratt stated that the ZBA can still go ahead with as much as possible by bringing in the public and asking the applicant describes their intentions. Mr. Pratt further stated that if the ZBA discovers during the Public Hearing the application is still incomplete the ZBA could then ask to table the applicant until the next ZBA meeting and close the Public Hearing. Mr. Pratt also stated the ZBA still has the choice of tabling or dismissing the application because the applicant did not provide enough information. According to Mr. Pratt, it was his understanding that if the application was tabled during the Public Hearing it was not necessary to re-advertise for the next hearing date. Kevin Caraccioli stated he was re-thinking the letter as the board was reviewing it. Robert Baker wondered what would happen if the application had reached day 61 post Public Hearing and the applicant still has not provided the requested information, does the ZBA have an additional 62 days to act upon the application? Randy Pratt stated that in that scenario he would ask the applicant for permission to extend the deadline. Kevin Caraccioli answered by saying yes, the ZBA would have an additional period of time; once the application was deemed complete then the ZBA has 62 days thereafter as a board to act on the application.

Marcella Gibson pointed out that a lot of complaints are made about the length of time the application process takes. Greg Auleta stated that that is where the notion of the separate packages for the various permits becomes important. Mr. Auleta stated that the goal should be to have the application process take no more than 4 to 6 weeks. He also felt that a goal should be to eliminate the initial review step.

Kevin Caraccioli will clarify and make additions to the initial review letter. He will present this letter at the next meeting. The ZBA secretary will forward the revised letter to Greg Auleta prior to the August meeting for his review. The ZBA will then review the letter at the August meeting.

#### **Fourth Order of Business**

##### **Alternates**

Mr. Pratt updated members on the status of appointing alternates to the board.

#### **Fifth Ordinance of Business**

##### **Open Board Discussion**

Randy Pratt advised members that as of yet, there has been no further development on the Wall Application that was reviewed at the June 2002 ZBA meeting. Mr. Pratt also stated that

the Town Council was "looking into Johnny's Dockside". Mr. Pratt stated Code Enforcement Officer, Don Dowd had called him with regard to a cell tower on Thompson Road. Mr. Pratt wondered if anyone recalled the conditions associated with the approval of the cell tower application, specifically if a new carrier is placed on the cell tower, did the carrier need to appear before the ZBA. Marcella Gibson was requested to research the resolution to determine if the carrier did, in fact, need to appear before the ZBA.

Greg Auleta questioned what the procedure for archival of materials/records in the Town of Oswego. He wondered how applications were archived for easy retrieval when it was necessary for the ZBA to review resolutions/applications. The ZBA secretary will ask the Town Clerk for the procedure and present the findings at the August ZBA meeting. Randy Pratt stated there was upcoming training slated in Rochester. More information will follow. Interested members should contact either the ZBA secretary or the Town Clerk.

Marcella Gibson presented her findings on the Spade Application/Permit discussed at the May 2002 ZBA meeting. She presented copies to members of the ZBA. The document dated July 15, 1982 stated Mr. Spade was approved to expand his business to sell used vehicles. Robert Baker questioned the boundaries included on the application. Marcella Gibson will research this matter and present her findings at the August ZBA meeting.

#### **Adjournment**

At approximately 8:35 PM a motion was made by Greg Auleta to adjourn the July 18, 2002 ZBA meeting. Robert Baker seconded the motion. All ayes. Motion carried. The next ZBA meeting is scheduled for Thursday August 15, 2002 at 7:00 PM at the Southwest Community Center.

Respectfully submitted,

Shelley A. Rahn  
Town of Oswego Zoning Board of Appeals Secretary