

March 21, 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 Board of Appeals was held on Thursday, March 21, 2002. Randy Pratt, Chairman called the meeting to order at approximately 7:10 PM.

Attendance

Those in attendance were:

Randy Pratt - ZBA Chairman
Marcella Gibson - ZEO/
Robert Baker - ZBA Member
Greg Mills - ZBA Member
Kevin Caraccioli - Legal Advisor
Shelley Rahn - ZBA Secretary

Don Dowd - CEO/Absent
Greg Auleta - ZBA Member/Absent
Brad Livesey - ZBA Member/Absent

Acceptance of Minutes

A motion was made by Greg Mills to accept the minutes from the February 21, 2002 meeting. Robert Baker seconded the motion. All ayes. Motion carried.

First Order of Business

Public Comment Session

There was none as no one was present.

Second Order of Business

Margaret Mahaney, Oswego Town Board Liaison

Randy Pratt introduced Councilwoman Margaret Mahaney as the liaison between the Town of Oswego's Zoning Board, Planning Board and Town Board. Randy asked Margaret about the appointment of a chairman to the Zoning Board. Margaret advised no one from the Zoning Board has expressed interest in the position. And as a result the Town Board felt the ZBA was more capable of making the appointment and therefore turned the decision over to the ZBA for this year. Randy asked the board if there were any volunteers for chairman. No one came forward. Randy added that no one has asked any of the ZBA members if they wanted the chair position. Margaret was under the impression letters had been sent to ZBA members asking them to step forward if they were interested in the chair position. None of the ZBA members had ZBA Meeting, March 21, 2002 received such a letter. Margaret will ask Oswego Town Supervisor, Victoria Mullen, to send letters to ZBA Members. Randy again asked members to step forward if they were interested in the position.

Randy Pratt asked if the Town Board had any issues they wished to bring to the ZBA attention. Margaret Mahaney advised the Town Board would like something done with the Zoning Map. The Board also wished to know where the ordinance revision stood. The Town Board also wanted to know if a committee, consisting of ZBA, Planning Board and Town Board members, needed to be formed. Randy advised the board had reviewed the Town of

Hannibal ordinance, since it was the most current ordinance in the area. ZBA members had revised the vocabulary section, and set back section, side yard and back yard variances of the ordinance. Randy advised there was still much more work to do, however, the ZBA is awaiting the Town Board's approval to continue working on revising the ordinance. The ordinance revision has been put on hold until the Town Board has made a decision on the formation of a committee. Randy proposed the ZBA Legal advisor, ZBA secretary, along with two members from the ZBA, Planning and Town Boards and possibly two members of the public form a committee so that representation from all interested parties would be present to speed the ordinance revision along. Greg Mills expressed his concern that once the ZBA made revisions to the ordinance and it was sent to other boards the revisions would be voted down. Greg Mills also expressed his concern over the lack of a set "process". Margaret advised the Town Boards goal was to get the ordinance revised and workable for all parties involved and to get the Planning Board and ZBA working together. Randy Pratt pointed out the ambiguity in the current Oswego Town Ordinance lends itself to lawsuit. Kevin Caraccioli expressed the immediate need for the revisions to be made. Kevin also stated that the attorneys for the Planning Board and Town Board are well aware of what needs to happen to make revisions to the Ordinance to make it a much stronger document. Marcella Gibson expressed her interest in being on the committee.

Randy Pratt requested Margaret provide ZBA members with the Oswego Town Comprehensive Plan once it has been approved. Margaret will provide members with draft copies of the Comprehensive Plan. Margaret wondered if a draft copy of the ordinance revisions was available for the Town Board. Randy advised the draft wasn't available until Kevin Caraccioli had reviewed the revisions as of yet. Randy Pratt and Greg Mills wished to be part of the Ordinance revision committee. Randy also invited all members of the Town Board attend the meeting. The ZBA thanked councilperson Mahaney for attending the meeting.

Third Order of Business Review ZBA Forms

At approximately 7:40 PM ZBA members reviewed the forms currently in use for both the review process and the public hearings.

The Board reviewed the Review Process Notification letter. Robert Baker questioned how the board would know who is a designated representative of the applicant. It was ZBA Meeting, March 21, 2002 suggested the applicant should designate who they would have appearing on their behalf, legal or otherwise.

Kevin Caraccioli questioned whether it was always the practice of the ZBA to vote immediately after the Public Hearing. Kevin felt this gave the impression the applicant could expect a vote that evening. Greg Mills suggested making the sentence in question part of the paragraph above and have it read "After the closure of said Public Hearing the ZBA will act upon the application." Randy Pratt suggested adding "after 30 days". Kevin Caraccioli advised the time frame was 62 days. Randy Pratt advised the ZBA had been asking the applicants if they were agreeable to and would consent to the ZBA tabling the application until the next meeting. Kevin again stated his main concern was not leaving the applicant with the impression their application would be acted upon that night. The ZBA requested Kevin Caraccioli draft a new version of the Review Process letter. Kevin will draft a new letter in time for the next ZBA meeting. Until a new letter has been formulated, the current letter will be used.

The ZBA members then reviewed the Review Process checklist. Randy Pratt would like to see the Town of Oswego Planning Board take the lead on the SEQR. Greg Mills advised the ZBA has been taking the time at meetings to walk applicants through the SEQR and he doesn't feel this is the forum for that to happen. Randy Pratt advised the Planning Board at one point had stated they would take the lead in the SEQR and they would also take the lead in sending the

application to the county, but as of yet for various reasons this has not happened.

Kevin Caraccioli explained the difference between involved and interested agencies. He defined an involved agency as a governmental body that has some permitting authority over the particular activity, i.e. D. O. T. in a driveway/road permit. Whereas an interested agency is one who has an interest but does not have to issue a permit, i.e. the County Planning Board but through the 239-review procedure they have the ability to comment. When more than one involved agency is present, a determination must be made as to who will take the lead. Randy Pratt advised the Zoning Enforcement Officer has been taking the lead on the SEQR and he doesn't feel this is the proper place for that authority. Kevin advised the agency issuing permits has the most interest and should become the lead agency. Kevin stated the ZBA would be the lead agency for special permits and variances. The Planning Board would be the lead agency for site plans that don't involve some aspect of zoning and subdivisions.

Randy Pratt asked Kevin Caraccioli if there was a better way for the ZBA to be going through the SEQR. Kevin stated Part I needs to be completed by the applicant prior to the meeting. Part II should be completed by the lead agency and potentially Part III also. The ZBA should not be filling out Part I for the applicant.

Greg Mills wanted to know how one would determine between using a Long Form SEQR and a Short Form SEQR. Kevin advised at the very least the applicant should have the Short Form filled out. Randy Pratt stated the checklist needed two parts under SEQR completion; is it filled out and is the Long Form or Short Form needed. Kevin also ZBA advised Part II is always the responsibility of the municipality or their designee. Kevin Meeting, March 21, 2002 stated the Zoning Officer could be designated to complete Part II, but the ZBA ultimately should review Part II.

Robert Baker wanted to know how the applicant would know what has to be completed and what is needed for the application. Randy Pratt stated the applicant would find out at the Review Process meeting or the CEO or ZEO would be able to tell them. Kevin Caraccioli suggested developing a package that would tell the applicant exactly what is needed from them before the Review Process Meeting and develop a protocol. The secretary will work on getting the packages together.

Randy Pratt suggested the CEO could advise an applicant whether or not an Agricultural Form is needed.

Board Members discussed the application flow between the ZBA and the Planning Board. The Planning Board meets on the 4th Monday of every month. Greg Mills felt the Planning Board should see applications prior to the ZBA in the instance of site development, subdivisions, outlines, variance needs then it goes to the ZBA based on the Planning Board's recommendations. Randy felt the Planning Board should first see anything that comes to the ZBA, however the meeting dates for one of the boards would have to change as Planning meets after ZBA. Also, the Planning Board should send some type of response/recommendation to the ZBA on applications that way the ZBA would not act upon something that is being sent to the Oswego County Planning Board as the Planning Board was to take the lead on sending applications to the County. Randy asked Margaret Mahaney to request the Planning Board give the ZBA written response before the next ZBA meeting, lack of response would be considered approval by the Planning Board.

Margaret Mahaney pointed out that the Review Process alone, in the current working situation would take at least two months. She suggested a notification be put in the paper, advising residents of the lengthy period applications may take.

Randy Pratt pointed out that meeting dates are not working out and that either ZBA or

Planning may need to change their dates. The Oswego Town Board needs to determine who does what duty and when each board should meet.

Randy Pratt advised Kevin Caraccioli of the policy that the applicant is responsible to reimburse the Town for the expense of certified mailings to notify the applicant's neighbors of the application, its intent and the date of the Public Hearing. Kevin suggested the applicant be held responsible for notifying the neighbors and be required to produce the return receipts before a Public Hearing date can be set. Board members agreed this responsibility should rest on the shoulders of the applicant.

Board members then discussed the Public Hearing notification letter. Kevin Caraccioli had an issue with the follow up letter sent to applicants. This was determined to be a redundancy and members agreed it was not necessary. Board members wished to change the notification letter's last sentence to read, "You or your representative must appear at the meeting or your application will be tabled until the next meeting or dismissed without prejudice".

Board members began reviewing the Public Hearing Format. Randy asked that a section be added that indicates the Public Comment Session will be closed. No other changes were discussed. Greg Mills suggested this Format be included in the initial application package. Kevin Caraccioli advised other municipalities included all of their forms in the application.

Fourth Order of Business

Secretary Comments

At approximately 9:10 PM ZBA Secretary, Shelley Rahn, advised ZBA members the Oswego Town website manager had asked for Frequently Asked Questions from the ZBA as to why someone would need to appear in front of the ZBA. Kevin Caraccioli will work with Shelley to develop this information. Greg Mills suggested posting Article 1 on the ZBA page. All members were agreeable to this for the time being until Shelley and Kevin have worked out more information.

Fifth Ordinance of Business

Old Business

At approximately 9:15 PM, Randy Pratt mentioned the Tug Hill Commission Training coming up in April. He encouraged all members to attend. Randy advised Town Clerk, Theresa Cooper is ordering ZBA reference material to be kept at Town Hall for ZBA member's use.

Adjournment

A motion was made at approximately 9:20 PM by Greg Mills to adjourn the March 2002 meeting. Randy Pratt seconded the motion. All ayes. Motion carried.

Respectfully submitted,

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