

TOWN OF LYSANDER
Zoning Board of Appeals Meeting
Monday, March 3, 2014 at 7:30 p.m.
8220 Loop Road, Radisson

The special meeting of the Lysander Zoning Board of Appeals was held Monday, March 3, 2014 at 7:30 p.m. at the Lysander Town Building, 8220 Loop Road, Baldwinsville, New York.

MEMBERS PRESENT: S. Webster Reid, Acting Chairman; Richard Jarvis; Frank Costanzo; Chris Patrick

MEMBERS ABSENT: Micha Ordway, Chairman

OTHERS PRESENT: Ken Landon; Larry Brennan; Kevin Voorhees; Hugh Kimball, Planning Board; Fred Allen, Chairman, Planning Board; Cynthia Hullar; George Hullar; Alissa Henderson and Karen Rice, Clerk

The meeting was called to order by S. Webster Reid, Acting Chairman, at 7:30 p.m.

I. PUBLIC HEARING -- 7:30 p.m.

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| 1. Variance—Flag Lot | Voorhees, Kevin |
| Case No. 2014—001(V) | 7940 Gates Road |

The Public Hearing opened at 7:30 p.m.

S. Webster Reid, Acting Chairman, reviewed the application of Kevin Voorhees , for an area variance for property located at 7940 Gates Road, Baldwinsville, New York, to allow the subdivision and subsequent construction of his single family residence, which requires a variance to Article XX, Supplemental Regulations, Section 139-59.1, Front Building Line and any other pertinent requirements of the Lysander Town Ordinance.

Kevin Voorhees, in making application to the Zoning Board of Appeals, prepared the following introduction of his request, in part:

My wife and I are planning to build a house on property that I currently co-own with my three younger brothers at 7940 Gates Road in Plainville.

Here is some background information regarding what we would like to do. The entire property is approximately 18.8 acres but we would like to subdivide it so that my wife and I can build our house on only about 2.5 acres of that parcel. If the necessary approvals are received from the Town, we would plan to have title to the 2.5 acre parcel solely in the name of e and my wife. The approximately 16.2 acres remaining in the original parcel would remain in the names of my three brothers and its current use

(abandoned agricultural) would not change. My younger brothers currently are not sure if or when they would seek to build a house on some portion of the 16.3 acre parcel. Potable water would come from a new well that we would drill on the property, and an on-site septic system would also be included in our plans for the 2.5 acre parcel. There is an existing farm lane on the property that we would use as our driveway; most of this would be included in a proposed driveway easement that I would enter into with my brothers. Electric service would be underground, probably trenched in adjacent to the farm lane, and would also become part of a proposed easement agreement with my brothers. **(Clerk: Location of access has been changed at the suggestion of the Planning Board at their meeting of January 23, 2014, with all necessary utilities being made part of said easement. Proposed maps show change).**

The enclosed property boundary survey for the 18.8 acre parcel was prepared by Stephen Sehnert. His surveyors also staked out the location of the 100 year flood boundary on the property, as shown on the enclosed survey. He gave me permission to make some mark-ups to his survey drawing for the purposes of this information submittal to the Town, to provide a general indication of the proposed subdivision boundaries along with a depiction of the general locations we have in mind for our house, septic system, driveway, and drilled well. I plan to have Mr. Sehnert prepare a final survey drawing submittal to the Town after our discussions with the Town have been completed.

The proposed 2.5 acres house lot parcel is in a wooded area on the property located along the shore of the Seneca River. The proposed locations for the house and on-site septic system are more than 100 feet from the river, and both are also proposed to be located above the 100 year flood boundary. Soil percolation test results for three test holes in the proposed septic field location were 5 minutes, 66 minutes, and 97 minutes. Based on the slowest of these percolation test results, a mound septic system is proposed. We plan to drill a water well approximately 200 feet uphill from the house that will also be more than 200 feet uphill from the septic system.

SPEAKERS:

Kenneth Landon, 8014 Gates Road, addressed the board with the following concerns:

Regarding 617.20 Appendix B Short Environmental Assessment form:

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- #6 Disagree, septic system mound; is the one septic mound to service one residence or all four residences once or when they are built or will each residence need its own septic mound... *so it will be like the community septic system in Whispering Oaks...remember the problems with that and it wasn't near the Seneca River.*
- #8 It will double the residency on Gates Road once all 4 families build. I would think that would increase traffic.
- #12B Cabin foundation from 1880's slaves or former slaves living there.
- #13b Disagree, leeching from improved road into adjacent creek which is at a lower elevation than the road; leeching from septic mound to ground water and

possibly Seneca River; ecological disaster if the river floods into septic mound in extreme proximity to flood plain boundary.

- #16 Inconsistencies...map shows project outside but close to flood plain; house elevation 380'. Septic mound elevation not mentioned; failed perc test...using septic mound because of that and situates right next to 100 year flood hazard boundary. Failed perc test due to poor drainage...if the septic mound fails where does the water go...the river...elevation of house.

Page 3:

- #18 Why doesn't the septic mound qualify here

Regarding Agricultural Data Survey:

- H Only Stan Boots is identified as possibly farming within 500 feet. What about the Hullar & Reeves families?
- I Contradicts statement about the possibility of three more residences

Other Items:

- Access road in a poor area for safely exiting and entering Gates Road; it's at the bottom of two hills and at the end of a blind curve. It's a very limited line of sight area.
- Some NYS DOEC regulations require permits to clear cut timber, to destroy native vegetation in wetlands, on river & stream banks & beds. It appears from the map that wetlands will be affected by the road improvement and the ditch for underground electrical service. Wetlands also appear to be between the residence and the river. If that is the case, what happens to that ground vegetation with human usage?
- (I have been) on Gates Road since June 1, 1972. It was a dirt road at that time. It's still a short country road running from Route 370 to Plainville Road whose character will be greatly altered by the building of the one or in the future four residences on wetlands between Gates Road and the Seneca River.
- Of the utmost concern is the septic mound that is necessary because the property failed the perc test. That septic mound so, so close to the 100 year flood hazard and the Seneca River could create an ecological disaster. It's too late to wonder what to do when that mound, for whatever reason, releases human waste into the ground and the Seneca River. Just say no now.

Allisa Henderson, 7939 Gates Road, stated that the 30' easement will be right across the road from her property and she doesn't want that. It changes the character of her immediate area and that of their rural road. Gates Road is a place for a subdivision, leave it the way it is.

Larry Brennan, 7939 Gates Road, seconds everything Ken and Allisa said. Not being an engineer or architect, but I live right across the road from the access road. Below us is a culvert that goes from behind our property, abuts the Hullar's property down to the Seneca River. In the ten years we've lived on Gates Road, at least three or four times we've seen flood waters come almost to the road level. It surges and wakes you up at

night because it's so loud. An incredible amount of water comes down through after a combination of heavy snow melt, rain, etc... All of this will go back towards where this home is going to be built. Further, I understand that the type of septic system under consideration is common in the south and warm weather climates; up here the reason we have underground septic is because it's very cold. What's going to happen when it's -25 degrees and you have an above ground septic system that's frozen, where's it going to go? You will not only impact wildlife there but the tourism from the Spa on the River and Red Mill Inn and the restaurants at the bridge will see feces come by when you're eating dinner, not good; to say nothing of what we would have to smell at our home across the road. I'm from NYC and we love being out here in the country. We go walking back there and you get about 200' and you're squishing in the ground. It's beautiful back here but it's wet. It seems to me that you'd have to build on stilts.

Mr. Reid stated that he is also concerned about where the wetland actually is and the potential for a problem. There might be another more suitable location and it wouldn't be as close to the wetland.

Mr. Voorhees stated that he provided a survey drawing that shows the boundary of the NYS wetlands, which is near the edge of the property, this corner of it (indicating on plan). Only a portion of the portion of the wetland was delineated because that's all that crossed the property boundary line. The line that parallels that is the 100' adjacent line, from that wetland, which is basically the buffer zone of the wetland. Our proposal house is outside both of those.

Mr. Reid asked that another map be provided that shows the wetland a little bit better, because I can't honestly see it.

It was determined that the small portion shown is the wetland. Most of the wetland is on the adjacent property.

Chris Patrick questioned if the current farm lane would just remain a dirt road.

Mr. Voorhees stated that originally when they submitted the plans to the Planning Board on an informational basis, we were proposing to improve that to be a gravel driveway, but through discussions we decided it would be better to move the driveway to the location shown. The reason for that was to avoid any concerns about the wetland with the driveway.

Mr. Patrick addressed the public and asked if the concern raised is the current farm lane or the proposed easement.

Mr. Brennan stated that there's already a dirt road right there, it fits right in and has been there for hundreds of years. The proposed easement is going to be significantly wide, thirty feet, and I'll be able to look out from my kitchen window, which will be charming.

There was some considerable discussion with regard to the line of sight, not being able to see people coming down the hill of Gates Road with a member of the audience stating that the proposed location is even worse than the other one.

Mr. Brennan added that there is a blind curve. The State has a fence to prevent people from going down into the creek. Just about once a year a car hits the fence or goes over the fence due to ice conditions or visibility. People use Gates Road as a cut through. There are accidents on that turn as it is now and having additional traffic wouldn't improve matters.

It was determined that any proposed access would have to be approved by Gene Dinsmore, Highway Superintendent.

Mr. Reid asked if that has taken place yet.

Karen stated that it has not because he wasn't sure what he was going to do. He can proceed with a building permit for one house now and use the existing access without any board approvals. It was the Planning Board's suggestion that he move the driveway down.

Mr. Brennan stated that he doesn't object to a home in and of itself if somebody wants to build a house, they have a right to do that, but it has to be done the right way with respect for the environment and the long term impact. To say I don't know what the rest of the family is going to do with the rest of the property...I think I do.

Mr. Reid stated that he has family in Maryland who has a raised bed system that is on top of a hill and it's because the soil was impervious to letting it leech on through the soils, so you have to build a raised bed system.

Mr. Murphy recited Murphy's Law, anything that can go wrong, will go wrong. You can't put the genie back in the bottle.

Mr. Brennan also expressed his concern with a 1600 foot driveway for emergency access. A fire would be catastrophic. Gates Road is 1 ½ miles long with four homes. It's essentially virgin forest.

Mr. Brennan asked if the letter from Stan Boots has been received.

Karen stated that it did and copies have been provided to the board members.

Mr. Brennan asked that the letter from Mr. Boots be read into the record:

Mr. Reid read the following into the record:

Stanley Boots, 7880 Gates Road, could not be present at this evening's meeting but offered the following letter to be read into the record, in part:

I object to the application of Kevin Voorhees for an Area Variance for property located at 7940- Gates Road, Baldwinsville, New York, Tax Map No. 044.-02-09.3 to allow the construction of a single family residence in accordance with Article XX, Supplemental Regulations, Section 139-59.1, Front Building Line and any other pertinent requirement of the Lysander Town Ordinance.

In his application he desires to build a home on 2.5 acres—the remaining acreage he stipulates that his three brothers will also build homes on said piece of property.

Tax maps show the parcel to be 14.9 acres while a copy of the survey performed in August 2013 supplied with the application shows the parcel to be 18.8 acres. Where did the additional acreage come from? Did it come from the portion of the property adjacent to the river?

I am concerned about the fire danger not only to the proposed dwelling, surrounding forest and wooded areas, but also to the safety of the inhabitants and first responders as the only access fire and rescue teams will have is down a 1600 foot long dirt farm lane.

Having lived on Gates Road since the early 60's I know how volatile the exposed water table level along the Seneca River is. What happens to the proposed 100' wetland buffer line on the property—how is this impacted by rising waters and storm water discharge! I am concerned about the environmental impact of having a raised septic system so close, literally feet away from the flood line border.

To approve this variance will not only detract from the natural beauty and ecological diversity of Gates Road, it will create a scenario for possible endangerment of freshwater wetlands and waterways and groundwater contamination. Zoning regulations are in place to protect areas. This pristine parcel of abandoned agricultural and wetland acreage would no longer be a natural haven for deer, waterfowl, other birds and wildlife.

Richard Jarvis addressed Mr. Voorhees, stating that Stan Boots is a client of his and as such I haven't participated in this conversation and I will abstain from voting on it, but I wanted you to have full disclosure that Stan is a client of his and actually contacted me on this last week. I will refrain from input in this particular case, just so you are aware.

Mr. Voorhees thanked Mr. Jarvis for that disclosure.

The application will be forwarded to the Onondaga County Planning Board for their review and recommendation as the Seneca River acts as a municipal boundary to the Town of VanBuren.

Mr. Brennan questioned if the easement is changed, where would the power go, up the hill or by the creek?

Mr. Voorhees stated that they are proposing a 30' wide easement which would include a 12' wide gravel driveway as well as a trench for utilities within that 30' easement.

Mr. Reid stated that there was an application before the board several years ago on Pendergast Road and asked the secretary what the similarities were with that application.

Karen stated that the application had 18 to 20 acres of land but they only had 100' of frontage, where 250' was required for one lot on the County Road. The Zoning Board of Appeals granted a variance to allow the flag pole lot to access the two lots. In this situation they have more than enough frontage; but Kevin and his wife want to own the parcel stand alone with access through the flag pole easement.

Mr. Jarvis stated that with the Pendergast parcel the gentleman to the north of the parcel had picked up an extra 50' of land and cut off the right-of-way that had been established further down Pendergast Road. The right-of-way didn't extend across that 50' piece. Access had to be off of Pendergast Road; otherwise he would have been able to come off of the private drive.

Karen concurred stating that she believes the gentleman built a detached garage in that location.

Jim Stirushnik, Dinglehole Road, posed a question to Karen. Is the County meeting open to the public?

Karen stated that the meetings are open to the public but I don't believe you have the opportunity to speak, just as an observer. If all goes well the meeting will be Tuesday, March 11th at 11:00 a.m.

Mr. Stirushnik questioned how the access road is going to be associated with the property, is it going to be a deeded access road or an easement?

Mr. Voorhees stated that he hasn't hired an attorney yet, but the thought process was that it would be an easement. My brother's and I would probably all have that easement in our names. If my younger brothers build at some point they would use the same driveway to wherever they chose to build along the river.

Mr. Voorhees further stated that he and his wife would own the roughly 2 ½ acres, outlined in red and an easement would be for access to get back to that parcel. That's my thought process, but I don't know how an attorney will advise me.

Mr. Jarvis stated that if you deed it nobody else, unless you subsequently gave them an easement, nobody else would be able to use it. Deeding that strip of property, I don't think you'll ever get anybody to advise you to do that or advise your brothers to do that.

Mr. Voorhees stated that right now all four of us own the entire property and all four of us would continue to own that 30' corridor if you will for a gravel driveway/powerline.

Mr. Stirushnik stated that these things could change, if houses are built by the brothers, they may need to have an easement of their own.

Karen stated that they'd have to come back before the board for approval also.

Mr. Reid questioned the discrepancy in acreage per Mr. Boot's letter.

Karen stated that this is Steve Sehnert's survey, he certified to this. He actually went out and did a meets and bound. That would be something for Steve to address.

Mr. Voorhee's stated that there was an original parcel that got expanded slightly towards the adjacent property, the Hullar property. My father inherited this land from his Aunt and he gave it to myself and my three brothers. During that process, the attorney for the Estate said that we needed some additional road frontage in case we were going build on it in the future, so he went to his sister who inherited the other part of the farm from my Aunt and purchased some additional lands. They drew a line at Gates Road to try to make sure that this parcel here (indicating on plan), which was 18.8 acres would include that entire farm lane. That was the discussion between my Dad and his sister. My father bought that land from his sister essentially. Maybe that would explain why it went from 14 to 18 acres.

Karen stated that in reviewing the tax maps, the former boundary lines are shown.

Mr. Stirushnik stated that he's very concerned about the length of the access road. As I understand it, it's going to remain a gravel road, not a paved driveway. It makes it very difficult for emergency vehicles to get access. The Town's people spend thousands of dollars for fire equipment and the fire people feel that they have to use it to its maximum. I'd hate to see them try to drive down that kind of road to make an emergency rescue or service a fire. I think its poor judgment to allow a road or a private driveway that length. The Town should start thinking about charging a fee or something for extra safety equipment for roads of that length that can't be serviced from a public highway and/or that driveways be built to public highway standards.

Mr. Reid stated that he's sure there are a lot of driveways that go back to river areas throughout the Town of Lysander, especially the properties going out Route 370 going towards Gates Road. There are no rules and regulations with regard to driveway lengths.

There being nothing further, the Public Hearing adjourned at 8:20 p.m.

II. APPROVAL OF MINUTES

Review and approval of the minutes of the December 2, 2013 special Zoning Board of Appeals meeting.

The Minutes of the December 2, 2013 special Zoning Board of Appeals meeting will be tabled until the April 7, 2014 special Zoning Board of Appeals meeting.

III. ADJOURN

RESOLUTION #2 -- Motion by Reid, Second by Jarvis

RESOLVED, that the March 3, 2014 special Zoning Board of Appeals meeting adjourn at 8:20 p.m.

4 Ayes -- 0 Noes

Respectfully submitted,

Karen Rice, Clerk