

**TOWN OF DAY ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES - Draft
May 17, 2021**

Pledge

Roll Call

Members Present:

Dave Davidson
Al Graham
Steve Edwards
Harry Brennan
Don Poe

Members Absent:

Counsel: not in attendance

Others Present: Kirk Kea, and Robert & Sheri Collins

Chairman Dave Davidson opened the meeting at 7:00PM

Motion, made by Chairman Davidson and seconded by member Al Graham to approve the meeting minutes from the April 19, 2021 Regular Zoning Board of Appeals meeting.

Ayes: Steve Edwards, Al Graham, Dave Davidson, Harry Brennan, Don Poe

Carried: 5-0

Old Business: Area Variance Application, for Sheri and Robert Collins **SBL 33.17-13, 13**

Beachwood Road West Neighboring Parcel: 33.17-1-12, 35 Overlook Terrace West

Boundary line adjustment will expand the Collins lot by approximately 880 sq. ft. and provide a 12' wide access to the driveway.

New Business: Public Hearing on above noted variance application. Chair Davidson noted that the Collins came before the board with an area variance application on April 19, 2021.

Public Hearing – opened at 7:05pm:

It was confirmed that the Collin's notified their neighbors via certified mail (receipts on file at Town Hall) that there would be a public hearing held at the Town Hall tonight. P&Z clerk posted a Public Hearing Legal Notice on May 6th, 2021 in the Post Star.

Chair Davidson asked Board Members if they had the opportunity to visit the property at 13 Beachwood Drive West. Board Members said they went to the property, with the exception of Steve Edwards.

Chair Davidson called on the Collin's to explain why they are seeking a zoning variance. Mr. Collins said that they are just looking to purchase a piece of property from his neighbor Mr. Kea, as they share a driveway that runs between the properties. He said that the portion of the deck and driveway was always there.

Mr. Kea, owner of the neighboring property and signer to the variance application, explained that they have attorneys who worked out an agreement between them, so he is fine with the boundary line adjustment. He explained that his father (Mr. Kea) originally owned the property. Chair Davidson found it odd that surveys were not done until now, but Mr. Kea explained that he wanted it done because the Collin's were having an open house and he thought there may be an issue.

Mr. Collins said he bought the property in 1997 and didn't realize the property line was not correct until they decided to put their house on the market and have it surveyed. Part of their driveway is on the Kea's property and it was like that when he purchased the property. The previous owner built it over the neighbor's property line.

Board members observed that 20+ years ago there were not requirements for surveys as there are today. Member Graham noted that although both lots are undersized, all they are asking to do is change the line between both lots, it is not affecting anyone around them so it should not be an issue if both parties are in agreement.

Member Poe noted that the Collin's notified 54 people within 500 ft. of their property and no one came to the Public Hearing so obviously no objections from the public.

Public Hearing was closed at 7:13 pm

Chair Davidson asked Board Members what their thoughts were on this application. All members agreed that they didn't see any issues with this request and both parties are in agreement, and there are no issues with any other neighbors.

Chair Davidson read from the **New York Planning Federation, Summary of Area Variance Criteria** and asked the Zoning Board of Appeals members to consider:

Whether benefit can be achieved by other means feasible to applicant: No, all Board Members in agreement.

undesirable change in neighborhood character or detriment to nearby properties;
No, all Board Members in agreement. The Kea's lot is larger, so we are moving from larger to smaller.

whether request is substantial; No, all Board Members in agreement.

whether request will have adverse physical or environmental effects. No, all Board Members in agreement.

whether alleged difficulty is self-created (which is relevant, but not determinative);
Four Board Members felt the situation wasn't self-created. Chair Davidson thinks it was. Davidson also observed that the purposed property line still left the house in violation of the requirement or a 15' setback, but that does not apply because the structure appears to have been before current zoning laws were in place.

Chair Davidson asked that the Board Members make a motion. Harry Brennan motioned to grant the variance request, seconded by Al Graham.

Polled:

Member Al Graham, yes

Member Steve Edwards, yes

Member Harry Brennan, yes

Member Don Poe, yes

Chairman Dave Davidson, yes

All granted.

Continuing Business: None.

Correspondence: None

Secretary's Report: None

Motion made by Al Graham and seconded by Harry Brennan to **adjourn** this regular meeting of the Town of Day Zoning Board of Appeals was made at 7:28 PM.

Ayes: Steve Edwards, Dave Davidson, Al Graham, Don Poe, Harry Brennan

Carried 5-0

Respectfully Submitted,
Diana Edwards, Clerk