

**TOWN OF DAY ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
OCTOBER 16, 2006**

Members Present: Kearney Mason, Chairman
Judy Traeger
Pat Volpe
Hank Lang
David Avidgor, Attorney

Absent: Ray Ives

Chairman Mason called the meeting to order at 7 p.m.

Old Business: **D’Allaird, Donald & Rebecca**
 06-03ZBA – Tax Map #43.12-1-73
 Area Variance – Repayment of Legal Ad Fee

Attorney Avigdor stated a Public Hearing was held at the September 18, 2006 meeting in regard to the D’Allaird area variance application. He stated that two adjoining property owners called the Town Hall stating they had only received their certified notifications on the September 15th and while they had no objection to the application, the concern was other adjoining property owners may not have had time to respond. Attorney Avigdor stated he had written to the D’Allairds explaining that the notices had not been sent ten days prior to the Public Hearing, which is required by State law. The letter stated if they did not agree that the notices were mailed on time, the D’Allairds should contact the Clerk of the Board and request a new Public Hearing for the October meeting. The Board may charge an additional fee for this re-advertisement. If the D’Allairds did not agree that the notices were late, they should appear at the October meeting to discuss when the notices were sent and all the Board to determine whether they were sent in time.

Attorney Avigdor stated the advertisement placed in the Post Star for tonight’s meeting was incorrect and was not able to be re-advertised in time to hold a Public Hearing at this meeting. He further stated that when an applicant pays a fee for their original application, the advertisement fee is included in that fee. However, this would be an additional fee and it would be up to this Board to decide if the applicant should be responsible for it. The Secretary stated she had spoken with Supervisor Johnson about the mix-up in the ads and Supervisor Johnson did not feel the

D'Allairds should be responsible for that fee. Board Member Volpe stated the fee could be split between the applicant and the Town. Board Member Lang questioned if this Board would be setting a precedent if we did not collect the fee from the applicant. Attorney Avigdor stated a precedent would involve the same conditions being present in the future and that would seem very unlikely. Board Member Lang stated he now understood that the mistake was on the part of the office and there would be a delay in construction. Attorney Avigdor stated it was. Board Member Lang inquired if there is an affidavit included with the application which states the certified mailings have been made. Attorney Avigdor stated there is and it was not presented at the September meeting. All Board Members agreed that the D'Allairds should not be responsible for the fee. Attorney Avigdor stated because no action was taken, no motion was necessary.

Chairman Mason stated in the future the applicants should be informed of the requirements of mailings. The Secretary stated she usually does point out the pages in the application relating to the mailings and stresses the necessity of mailing them ten days prior to the Public Hearing but in light of the fact this applicant was very familiar with the requirements, she did not review it with them.

Minutes

Motion by Judy Traeger, seconded by Hank Lang to accept the minutes of the September 18, 2006 regular meeting. Ayes: Kearney Mason, Pat Volpe, Hank Lang, Judy Traeger. Carried 4-0.

Old Business

**Fedorowicz, John & Laura
06-01ZBA – Tax Map #43.6-2-10
Area Variance**

Chairman Mason inquired if the Fedorowiczs had submitted anything further. The Secretary stated they had not. It was noted that they would be carried for one more month on the agenda. Attorney Avigdor stated the Board Members are in receipt of a letter from the Planning Board. He stated because it is this Board's decision, the letter should be considered as a comment and not dispositive simply because it is from the Planning Board. Chairman Mason stated it would be considered from the public, albeit very knowledgeable members of the public.

Correspondence Letter from the APA regarding a training session to be held in Keeseville. No members were interested in attending due to the distance. Board Member Volpe stated if the meeting were taped, he would be interested in obtaining a copy.

Secretary's Report None.

Public Participation None.

Adjourn At 7:20 p.m. a motion was made by Board Member Volpe, seconded by Board Member Traeger to adjourn the meeting. Ayes: Mason, Volpe, Lang, Traeger. Carried 4-0.

Respectfully submitted,

Diane R. Byrne
Secretary