

# TOWN OF DAY PLANNING BOARD – MINUTES

## REGULAR MEETING – JUNE 5, 2006 – 7 P.M.

**Members Present:** David Cox, Chairman                      **Absent:** None  
Ted Mirczak  
Nancy Morris  
Jack Vaillancourt  
Dick Traeger  
David Avigdor, Attorney

### Pledge

**Motion** by Jack Vaillancourt, seconded by Ted Mirczak to approve the Minutes of the May 1, 2006 Regular Meeting. Ayes: David Cox, Dick Traeger, Nancy Morris, Jack Vaillancourt, Ted Mirczak. Carried 5-0.

### **Old Business                      Lediger, Catherine M. – PB06-05BLA – Tax Map #31-1-9.1**

Chairman Cox stated a letter had been received from Ms. Lediger's Attorney, Matthew Ludemann stating "Following further discussions between the seller and buyer, it has been agreed that rather than a 100' x 50' parcel, a 150' x 40' parcel would be conveyed." Chairman Cox stated this would have no effect on the recent boundary line adjustment decision by this Board and the changes would be noted.

**Motion** by Ted Mirczak, seconded by Jack Vaillancourt to declare this is a boundary line adjustment and we accept the new revised boundary lines. Ayes: David Cox, Ted Mirczak, Nancy Morris, Dick Traeger, Jack Vaillancourt. Carried 5-0.

### **Allen, Cheryl & Buddy – PB050-01-SUB – Tax Map #25-1-23**

Chairman Cox stated this Board approved a family subdivision in the Allen Application. Mrs. Allen wished to file the subdivision map but the County was not sure it was a legal subdivision without a stamped map. Mrs. Allen wanted to insure her family had no future problems and that was why she wished to file the map showing the gift lot. Board Member Mirczak inquired about the term non-jurisdictional. Attorney Avigdor stated referring to this as a "family subdivision" is technically incorrect. Under Town of Day's subdivision law, it states that we do not need to approve a family subdivision nor do we have to approve a gift lot. There is

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no approval process for a gift subdivision and therefore this would be non-jurisdictional. Attorney Avigdor further stated that is why we did not approve it, we cannot stamp the map and it is important that we do not have a stamp on it. If a property owner does a poorly designed family subdivision, it would be their problem and not the Town of Day's.

Attorney Avigdor stated the Secretary had been referred to Mike Valentine's office for advice who in turn referred her to the Town of Corinth and they sent an "Affidavit of Non-Jurisdiction of Town of Corinth Planning Board", a copy of their local law and a copy of the stamp they use on such maps all of which were recommended to them by Saratoga County Clerk's Office.

Chairman Cox stated he had no problem with the content of the stamp but inquired if the Town of Corinth has a different relationship with the APA (as indicated on their affidavit "2.)If you reside within the Boundary's of Adirondack Park Agency, you must submit either A.) A letter from Adirondack Park Agency stating that no Agency permit is required or B.) The permit from Adirondack Park Agency.") Attorney Avigdor stated the Town of Corinth did have a different relationship with the APA and this statement would not be necessary in the Town of Day unless it were a Class A Regional Project. This could be a gift but APA would have jurisdiction on it.

Board Member Vaillancourt inquired if a gift lot is limited only to family or can anyone gift a lot? Attorney Avigdor stated the Town of Day did not want to decide who was a family and did not consider this a big risk so anyone can gift a lot to another party. Discussion ensued on the definition of family and the litigation which resulted from that particularly in college towns in overpopulated apartments.

Chairman Cox inquired if it would be wise to have an affidavit and if it would require a local law. Attorney Avigdor stated it would not require a local law because there is already one in place. He further stated he would prepare an affidavit and revise the stamp. Board Member Mirczak stated he did not feel the affidavit was onerous and would provide additional details. Board Member Vaillancourt agreed there should be an affidavit. Chairman Cox inquired if the Town Board would need to approve the affidavit. Attorney Avigdor stated they would not, only the Planning Board.

**Motion** by Ted Mirczak, seconded by Jack Vaillancourt to adopt an affidavit as a requirement to stamping a non-jurisdictional family subdivision with the appropriate stamp. Ayes: David Cox, Ted Mirczak, Jack Vaillancourt, Nancy Morris, Dick Traeger. Carried 5-0.

**New Business** The Secretary stated she had been contacted by Laura Fedorowicz and Louis McArthur for subdivision applications.

**Correspondence** Chairman Cox stated a memo had been received from the County regarding a notification change of adjoining property owners. Effective July 1<sup>st</sup> any local municipalities located within the 500 feet boundary must also be notified. The change would be made on the applications and be the responsibility of the applicant to make that notification.

Three conference materials were also received:

Saratoga County Industrial Development Agency “Planting the Seeds for Further Economic Growth” and Planning and Zoning Summer Schools. Members should notify the Secretary if they are interested in attending. And, a conference “Ethical Issues for Planning and Zoning” to be held in Saratoga Springs on June 22 which Chairman Cox and Board Member Mirczak will attend.

Chairman Cox also received “Capital District Data”.

The Secretary stated she also has a conflict with the next meeting date of July 3<sup>rd</sup> and it was mutually agreed by all members to change the meeting date to Wednesday, July 5<sup>th</sup> at 4 p.m.

Board Member Mirczak stated in New York Planning Federation “Planning News” there was notice of an updated version of “The Short Course: A Basic Guide for Planning Boards and Zoning Board of Appeal in New York State” which he felt would be a valuable tool to be included in the Planning and Zoning library. He requested a copy of same (\$20 plus \$3 shipping and handling).

**Public Participation** Anthony Melillo appeared before the Board to inquire about a possible subdivision. Mr. Melillo stated he resided on Hadley Hill Road and had been recently informed by the County that he owned ten additional acres. This ten-acre parcel has 280 feet of road frontage. It was determined that it is located along with the rest of Mr. Melillo’s property in the Residential Low Density District which requires 300 feet road frontage. Board Member Mirczak

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stated the issue is the road frontage. Mr. Melillo stated it was grandfathered because it was not originally included in his property. Chairman Cox stated that while Mr. Melillo is now the owner of these additional acres, it is included with his original parcel and deed and does require the 300 feet of road frontage.

Attorney Avigdor stated he formerly represented Mr. Melillo but is representing the Town of Day in this matter. Chairman Cox inquired what structures were on the original property. Mr. Melillo stated a hunting camp and a trailer. Attorney Avigdor stated someone may wish to build a structure on the subdivided ten acres and it is required to meet the zoning laws of the Town of Day. The 260 feet of road frontage is not pre-existing.

Chairman Cox stated Mr. Melillo should appear before the Zoning Board of Appeals for a variance for the road frontage requirement and if they approve it, then appear before the Planning Board for the subdivision.

**Motion** by Ted Mirczak, seconded by Jack Vaillancourt to deny the proposed subdivision due to it not meeting the minimum road frontage requirement. Ayes: David Cox, Ted Mirczak, Dick Traeger, Nancy Morris, Jack Vaillancourt. Carried 5-0.

**Motion to Adjourn** at 7:50 p.m. made by Dick Traeger, seconded by Nancy Morris. Ayes: David Cox, Dick Traeger, Jack Vaillancourt, Ted Mirczak, Nancy Morris.

Respectfully submitted,

Diane R. Byrne  
Secretary