

TOWN OF DAY PLANNING BOARD – MINUTES

REGULAR MEETING – AUGUST 7, 2006 – 7 P.M.

Members Present: David Cox, Chairman
Ted Mirczak
Jack Vaillancourt
Dick Traeger
David Avigdor, Attorney

Members Absent: Nancy Morris

Pledge

Motion by Ted Mirczak, seconded by Dick Traeger to approve the Minutes of the July 5, 2006 with the following corrections: Page 3, paragraph one “total acreage now is 0.84 acres and after the transfer it would be reduced to 0.64 acres...and 0.64 would be substandard.” From “total acreage now is 1.84 acres and after the transfer it would be reduced to 1.64 acres...and 1.64 acres would be substandard.” Ayes: David Cox, Dick Traeger, Jack Vaillancourt, Ted Mirczak. Carried 4-0.

Old Business Crooks, Elaine – PB06-02SUB – Tax Map #23-1-16

After conducting the Public Hearing, Chairman Cox reopened the Regular Meeting at 7:10 p.m. stating this is a two-lot subdivision meeting minimum requirements. There were no comments from the Board.

Resolution #PB06-02SUB offered by Jack Vaillancourt, seconded by Ted Mirczak to approve the two-lot subdivision. Ayes: David Cox, Ted Mirczak, Jack Vaillancourt, Dick Traeger. Carried 4-0.

Hanstein, George & Matthews, William – PB06-04SUB Tax Map #42-2-25.1

After conducting the Public Hearing, Chairman Cox reopened the Regular Meeting at 7:10 p.m. stating this is a two-lot subdivision meeting minimum requirements. There were no comments from the Board.

Resolution #PB06-04SUB offered by Dick Traeger, seconded by Ted Mirczak to approve the two-lot subdivision. Ayes: David Cox, Ted Mirczak, Jack Vaillancourt, Dick Traeger. Carried 4-0.

Ratcliffe, Michael – PB06-07BLA – Tax Map No. 33.18-1-36

There has been no action on this application this month.

New Business

**Perryman, Arthur & Kristine – PB06-08SUB
Tax Map #25.1-22.2**

Mr. Perryman stated he wished to subdivide the parcel into two lots. Board Member Mirczak stated it appeared from the map provided that the parcel would fall in Residential Low Density which requires 8.5 acres and 300 feet road frontage. This parcel is located on a 40-foot right of way behind other properties. Board Member Vaillancourt stated it was a dirt road and he did not know if it were a private or public road. Mr. Perryman stated he would split off additional acreage from a 25-acre parcel. Board Mirczak stated the issue with this application is sufficient acreage and frontage. Attorney Avigdor stated it must meet requirements or be referred to the Zoning Board of Appeals. Attorney Avigdor further stated he represented the Perrymans previously but was representing the Town of Day at this time. He explained that there are specific criteria for granting area variances and the Perrymans should contact him for that criteria before making a decision to apply before that Board. Scott York would be able to determine if it were a public or private road.

**Fedorowicz, John & Laura – PB06-09SUB
Tax Map #43.6-2-10**

Mr. Fedorowicz stated he wished to subdivide two parcels and include the road frontage from a parcel, which he owns on the other side of the road to help meet the road frontage requirement (81 feet). He stated each parcel would meet the acreage requirement.

Chairman Cox stated there was no problem with the acreage but there was a concern with the triangular parcel on the opposite side of the road having been used in a previous subdivision by a previous owner (Silber) to meet the requirement. A check of the files by Attorney Avigdor revealed that the parcel stated it was located in lakefront residential but there was no evidence in 1992 of the zoning ordinance. Attorney Avigdor stated that Mrs. Silber did not need frontage and that the triangle was incidental. He further stated there was no technical reason it can't be allowed. Board Member Mirczak it was an issue of density. He stated they would also need a boundary line adjustment from the larger parcel to meet the requirements of these parcels.

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Chairman Cox stated the grade of the driveway might be an issue. Mr. Fedorowicz stated he would be able to make the grade 10%.

It was agreed that Mr. Fedorowicz would need to complete another application and submit a survey as this application is incomplete.

Motion by Jack Vaillancourt, seconded by Ted Mirczak to declare the application incomplete. Ayes: David Cox, Dick Traeger, Jack Vaillancourt, Ted Mirczak. Carried 4-0.

Cromie, William J. – PB06-10-SPR – Tax Map # 33.14-2-1.2
Cromie, Brian & Patrick – PB06-11SPR
Tax Map #33.14-2-13

Chairman Cox stated because these two applications are so similar, discussions on both will be entertained at the same time. He further stated that the Cromies are neighbors but four lots away and he would not need to recuse himself. Attorney Avigdor stated he wished to declare that he had been involved with real estate work with them including these parcels. Chairman Cox stated these were simple site plan reviews which involved putting rip rap on the beach area by the same contractor. It was indicated that both had received permission from the Army Corps of Engineers but there was nothing in the file from Hudson River Black River Regulating District. Board Member Mirczak stated it should be included as part of the motion that all agencies required be contacted and required permits be obtained.

Motion by Ted Mirczak, seconded by Jack Vaillancourt to approve the Site Plan for Shoreline Work for beach restoration for a period of one year to William Cromie pursuant to the applicant obtaining all required permits from any agencies involved. Ayes: David Cox, Dick Traeger, Jack Vaillancourt, Ted Mirczak. Carried 4-0.

Motion by Ted Mirczak, seconded by Jack Vaillancourt to approve the Site Plan for Shoreline Work for beach restoration for a period of one year to Brian and Patrick Cromie pursuant to the applicant obtaining all required permits from any agencies involved. Ayes: David Cox, Dick Traeger, Jack Vaillancourt, Ted Mirczak. Carried 4-0.

Correspondence NYS Planning Federation October conference materials were received with members to notify the Secretary if they wish to attend prior to September 15th registration deadline.

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The Secretary had been in contact with APA staff member Suzanne McSherry regarding the Camp Cherith application and Ms. McSherry referred this Board to the Department of Health in Glens Falls for information on the water treatment facility.

Chairman Cox stated he had received a letter from Saratoga County Planning introducing their new director, Jason Kemper who has offered to meet with this Board at our convenience to discuss any issues.

Chairman Cox stated there would be a Public Hearing on tree cutting on Monday, August 14th at 6 p.m.

The Secretary stated that due to a scheduling conflict, she would need to change the September meeting date. It was agreed it would be Tuesday, September 5th at 7 p.m.

Board Member Vaillancourt questioned setting precedent. He stated at a previous meeting a representative from the APA stated that there was no such thing as setting precedent. Attorney Avigdor stated that may be true but that does not mean there is no such thing as precedent. He stated that if a good decision is made and a person shows up thereafter, he would expect to be treated in the same way. However, if a bad decision is made that does not mean that it cannot be changed in the future indicating that a bad decision had been made and this would be the new policy. The bad decision would have to be made public in order to institute a new policy.

Motion to Adjourn at 8:20 p.m. by Jack Vaillancourt, seconded by Dick Traeger. Ayes: David Cox, Dick Traeger, Jack Vaillancourt, Ted Mirczak. Carried 4-0.

Respectfully submitted,

Diane R. Byrne
Secretary