

# **TOWN OF DAY PLANNING BOARD**

## **REGULAR MEETING – AUGUST 6, 2007 – 7 P.M.**

**Members Present:** David Cox, Chairman  
Ted Mirczak  
Dick Traeger  
Jack Vaillancourt  
Charles Dreyer

**Members Absent:** David Avigdor  
Attorney

**Motion** by Charles Dreyer, seconded by Board Member Mirczak to approve the July 2, 2007 minutes with the following correction: Page 3, second paragraph, line 1: “Mr. Sajdak stated if changed to...” to “Mr. Sajdak stated if changed the...”. Ayes: David Cox, Ted Mirczak, Dick Traeger, Jack Vaillancourt, Charles Dreyer.

**Old Business**                    **MAJESTIC MOUNTAIN MARINA**  
**PB07-06ZBA Tax Map #32-19-1-31**

Mr. Sajdak, owner of Majestic Mountain Marina, reviewed his revised application. He stated at last month’s meeting a snack bar was defined as a “public eating place where snacks are served at a counter” which would indicate he has been in violation since he was granted the site plan due to the contents of his menu not meeting the definition of “snacks”. Mr. Sajdak stated it was never his intention to be in violation of any of the requirements of the zoning ordinance. He further stated this was not an expansion just a modification of the menu. Mr. Sajdak stated it was not a tavern due to the fact his food sales exceed his liquor sales and he would be willing to produce those receipts for Board review.

Mr. Sajdak stated he wished to add a ground level patio which would be 18’ x 25’ fully surrounded by railing for outdoor dining only with access to and from only from the main dining area. It would contain tables and chairs possibly with umbrellas. Board Member Mirczak stated the zoning classification of “marina” was incorrect and should be lakefront residential. Board Member Mirczak stated on the Environmental Assessment Form, Item no. 11, “Does any aspect of the action have a currently valid permit or approval?” and yes was indicated. Mr. Sajdak stated the State Liquor Authority would need to approve serving alcoholic beverages on the deck. Board Member Mirczak inquired if any action was needed to be taken by the Department of Health. Mr. Sajdak stated there was none. Board Member Mirczak stated an addendum was included with the application which indicated there may be live entertainment. Mr. Sajdak stated the definition of a

tavern given at last month's meeting included live entertainment while a restaurant did not and Chairman Cox stated he should include any possible changes to the site plan review application to avoid any violations in the future. Mr. Sajdak stated this may be something they would do in the future and it would not be an amplified band but a disk jockey or one or two acoustic players which would also not interfere with those dining in the restaurant. Board Member Traeger stated this could possibly be an annoyance to neighbors if it were too loud. Mr. Sajdak stated the music would never be outside on the patio. Board Member Mirczak inquired if the patio would meet the setback requirements from the highway. Mr. Sajdak stated it would.

Board Member Traeger stated at the time of Mr. Sajdak's original application, it was stated the second driveway would not be used and it is currently in use. Mr. Sajdak stated it was always an existing driveway but had been in disrepair and become overgrown and at the time of the original application was not usable. He was under the impression that it was an existing driveway and did not require any approval from the Highway Department. He did state that he was attempting to contact Ted Serbalik or Mitch at the County Highway Department but was not able to reach them. Board Member Traeger stated he did have a concern about safety in regard to the driveways. Chairman Cox stated that since it was on a county highway, this Board must submit the application to County Planning and they will refer it to County Highway. Mr. Sajdak stated either driveway would be unsafe if for instance a vehicle were traveling north and disembarking from the south and vice versa. Chairman Cox stated it would not be inappropriate for Mr. Sajdak to contact County Highway at this time himself and begin the process for approval. Mr. Sajdak stated he could make each driveway one way and would follow all the recommendations of this Board regarding the driveways. Board Member Mirczak agreed and stated if the driveways were posted, there would no need to shut one of them down.

Mr. Sajdak stated he paid an application fee last month and inquired if any further fees were required. The Secretary stated all fees had been paid.

Board Member Dreyer inquired how large the deck would be. Mr. Sajdak stated it would be 18' x 25' with 25 feet running parallel to the building.

Chairman Cox inquired if any other members required any further information to deem the application complete. All members stated there was no other information required.

**Motion** by Ted Mirczak, seconded by Board Member Vaillancourt to declare the application complete and set the Public Hearing for Thursday, September 6, 2007 at 7 p.m. Ayes: David Cox, Ted Mirczak, Jack Vaillancourt, Charles Dreyer. Nays: Dick Traeger. Carried 4-1.

Chairman Cox directed the Secretary to refer the application to County Planning and stated no action would be taken on this application until County Planning reviews it and sends their comments to the Board. He stated County Planning should complete their review prior to the September Public Hearing.

**PERRYMAN, Arthur & Kristine**  
**PB06-08SUB Tax Map #25-1-22.2**

The Secretary stated Mr. Perryman inquired if any Board Members had walked the right-of-way accessing his proposed subdivision as discussed at a previous meeting. Board Members stated they had not due to the fact that a subdivided lot requires a minimum amount of road frontage and Mr. Perryman's proposed lot does not have any road frontage and therefore is a closed issue. Chairman Cox directed the Secretary to write a letter to Mr. Perryman indicating the same.

**DiMARZIO, Alfred**  
**PB07-07SPR Tax Map #31-1-17**

Chairman Cox stated this application is for shoreline restoration. Board Member Mirczak stated that while he considered this a well executed application; it was not complete with the permits from DEC or Hudson River Black River Regulating District missing. It was noted that the Environmental Assessment Form, Item No. 11 did indicate these permits were in process. The Secretary was directed to notify the applicant.

**Motion** by Dick Traeger, seconded by Board Member Dreyer to declare this application incomplete. Ayes: David Cox, Ted Mirczak, Jack Vaillancourt, Dick Traeger, Charles Dreyer. Carried 5-0.

**CARBONE, Richard**  
**PB07-08SPR Tax Map #31.19-1-18**

Chairman Cox stated this application was also for shoreline restoration and did not have the required permits from the Army Corps of Engineers, DEC and Hudson River Black River Regulating District. The Secretary was directed to notify the applicant.

**Motion** by Charles Dreyer, seconded by Board Member Vaillancourt to declare this application incomplete. Ayes: David Cox, Ted Mirczak, Jack Vaillancourt, Dick Traeger, Charles Dreyer. Carried 5-0.

**OTHMER, Joan  
OTHMER, Karl & Anderson, Janet  
PB07-09 BLA Tax Map #44-1-54.111 and 44-1-54.12**

Board Members reviewed the map submitted by the Othmers. Karl Othmer explained they were proposing a boundary line adjustment and 19.798 acres would be added to his parcel from his mother's parcel. Chairman Cox stated if they were beginning with two parcels and ending with two parcels it would be designated a boundary line adjustment. Mr. Othmer stated the easement to his home from the county highway would be conveyed to his parcel. Board Member Mirczak stated two lines of road frontage would be included in this boundary line adjustment. Mr. Othmer stated there are no plans for any additional buildings. Chairman Cox asked for any further comments or questions from the Board Members. There were none.

**Motion** by Jack Vaillancourt, seconded by Board Member Mirczak finding this would be a boundary line adjustment. Ayes: David Cox, Ted Mirczak, Jack Vaillancourt, Dick Traeger, Charles Dreyer. Carried 5-0.

Mr. Othmer inquired if he should be notifying the Adirondack Park Agency. Chairman Cox stated he does not.

Charles Pita presented a proposed boundary line adjustment for comments from the Board. Mr. Pita is a prospective purchaser of a three parcels owned by Elizabeth Todd on Denton Road. The property consists of one large parcel, a parcel which is a right-of-

way and a small parcel containing a well house. Mr. Pita would add to the two smaller parcels in order to gain two additional buildable lots. Chairman Cox stated the lots would not be buildable because the building rights would cease upon the creation of deeds due to lack of road frontage. He stated Mr. Pita currently has one buildable lot which is pre-existing but non-

conforming. Chairman Cox stated Mr. Pita could construct a road to meet specifications required for a new road and approach the Town regarding the dedication of this road. However, it would be very costly and the Town may not consider taking over this road. Board Member Mirczak reviewed the requirements of the ordinance regarding road frontage in this district.

**Correspondence**

**GOODSPEED/MATTISON  
Site Plan Review – Dog Kennel**

Letter received from Herb Sjolund, Zoning Enforcement Officer stating there was no evidence of any use at this dog kennel but he would continue to monitor the residence for any signs of their return.

A request was received from Simons Land Consulting for a copy of the Ordinance and information on any zoning regulations regarding telecommunications towers. The Secretary provided them with a copy of the Ordinance indicating the section pertaining to telecommunications towers. No other information was received on what types of towers were going to be constructed.

Soils Analysis Installation and Inspection conference to be held October 1-3, 2007 in Glens Falls was distributed with no interest in attending.

Letter received from Corinth Planning Chairman Louise Reed regarding training classes to be held on September 26, 2007 at the Corinth Town Hall and asking for input on class subject. There was no discussion of any class subject and members will RSVP when they decide if they will be attending the classes.

Letter received from the Department of Health indicating their jurisdiction in subdivisions of five or more parcels on five or less acres. Each Board Member was provided with a copy of the NYS Realty Subdivision Laws booklet.

**Secretary's Report** None.

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**Public Participation** Mr. Sajdak stated when the motion was made to accept his application as complete, Board Member Traeger voted no and he was inquiring if there was an item missing from his application. Board Member Traeger stated due to changes Mr. Sajdak made to his establishment such as adding liquor and never receiving permission from this Board to make changes to his original site plan is what prompted his negative vote. Mr. Sajdak stated while

he is not obligated to, he would provide receipts of his sales to the Board which would indicate the food sales outpace the liquor sales. Mr. Sajdak stated he spoke with both Code Enforcement Officer Metzler prior to adding liquor and changing from a snack bar to a restaurant and they advised he did not have to appear before the Planning Board. Board Member Traeger stated when a business is located in lakefront residential district and there are any changes made, they must appear before this Board. Chairman Cox stated without speaking to Ken Metzler, there may have been contributing factors and he has not verified any of them at this time. Board Member Traeger stated this Board would need to speak with Attorney Avigdor in this matter. Chairman Cox stated if what Mr. Sajdak has told this Board is true, he can understand the confusion. Board Member Mirczak stated that at this point the application is complete and the Public Hearing will be held in September. Board Member Traeger stated he may have been incorrect in voting no on the application's completeness.

**Motion** by Jack Vaillancourt, seconded by Board Member Dreyer to adjourn the meeting at 8 p.m. Ayes: David Cox, Ted Mirczak, Dick Traeger, Jack Vaillancourt, Charles Dreyer. Carried 5-0.

Respectfully submitted,

Diane R. Byrne  
Secretary