

TOWN OF DAY PLANNING BOARD REGULAR MEETING – AUGUST 3, 2009

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

Members Absent: None

Motion by Jack Vaillancourt, seconded by Board Member Brennan to approve the minutes of the July 6, 2009 meeting. Ayes: Cox, Traeger, Brennan, Vaillancourt. Carried: 4-1 (Abstention – Mirczak).

Old Business: **O'Brien, John PB09-02BLA**
Tax Map #42.9-1-11 & 42.9-1-22.1

Mr. O'Brien is not ready to proceed with the boundary line adjustment application because the survey has not been completed and health issues. He does intend to appear before the Board on this application within the next few months. Mr. O'Brien is aware the application may be referred to the Zoning Board.

Town Attorney Avigdor stated this Board is presented with boundary line adjustments which under normal circumstances would not be jurisdictional. The question which is posed to the Board is whether it is a merely a boundary line adjustment or a subdivision in spite of the transfer remaining within the original number of parcels. It would be determined to be a subdivision if the boundary line adjustment is so impactful or so extensive that the lot which is becoming smaller is seen as new because it is so different from what was. For example, if two neighbors, each owning 100 acres, wish to move the boundary line and the resulting change would be 199 acres and one acre, it would constitute a subdivision. The one acre lot would be considered to be new. While this would be an extreme example, in any case where the lot which is becoming smaller comes into non-compliance or is non-compliant and is made even more non-compliant with Town of Day zoning, it would be fair to deem it a subdivision. However, if the lot which is being reduced is not severely smaller or does not newly or extensively violate zoning, it is a boundary line adjustment and this Board would not have jurisdiction if they were displeased or not.

Board Member Mirczak stated considering those two 100-acre lots in Lakefront Residential District, if the boundary line adjustment

resulted in 198 acres and two acres. The two acre lot would still be in compliance with the requirements of Lakefront Residential District while being significantly different. Town Attorney Avigdor stated if he were a voting member of the Planning Board, he would deem that a subdivision which he may also approve. He would take jurisdiction over that application as a subdivision with the consideration that the two-acre parcel may contain extensive wetlands making septic location impossible. Or, there may have been sufficient road frontage to locate a driveway where there is sufficient slope and now there no longer is. Those would be the two reasons why that subdivision may not be approvable.

In the case where the lot created becomes non-compliant, it would need to be deemed a subdivision, deemed incomplete and referred to the Zoning Board for a variance. If the Zoning Board grants the variance, it would then be referred back to the Planning Board.

New Business: None.

Correspondence: All Board Members were in receipt of the memo regarding safety assessments from Capital District Transportation Committee.

Chairman Cox stated he will be attending the New York Planning Federation Conference on September 14 and 15 in Lake Placid. All Board Members were in receipt of the conference registration and schedule. Chairman Cox stated the deadline for registration is August 24, 2009.

Chairman Cox stated the Sacandaga Protection Committee will be visiting property owners in a door-to-door campaign. They will be explaining to property owners the implications of new regulations.

Town Attorney Avigdor stated he will be out of town from September 7-21 and will not be in attendance at the September Board Meeting.

Public Participation: None.

Motion by Ted Mirczak, seconded by Board Member Traeger to adjourn the meeting at 7:15 p.m. Ayes: Cox, Mirczak, Brennan, Traeger, Vaillancourt. Carried: 5-0.

Respectfully submitted,

Diane Byrne
Secretary