

# **TOWN OF DAY PLANNING BOARD REGULAR MEETING FEBRUARY 1, 2010**

**Members Present:** David Cox, Chairman                      **Members Absent:** None  
Ted Mirczak  
Dick Traeger  
Jack Vaillancourt  
Eileen Brennan  
David Avigdor, Town Attorney

**Motion** by Jack Vaillancourt, seconded by Board Member Brennan to approve the minutes of January 2, 2010 with the following correction: Page 2, paragraph one, line 9 change from “requirement of both signatures...” to “requirement of all signatures...”.  
Ayes: Cox, Mirczak, Brennan, Traeger, Vaillancourt. Carried: 5-0.

**Old Business:**                      **BRADLEY, Alan R. Jr.**  
**PB09-06SPR Tax Map #42.-1-83**  
**Viewshed Location**

Board Member Mirczak and Town Attorney Avigdor recused themselves for reasons stated at the last meeting.

Chairman Cox stated emails were exchanged between himself, the Secretary and Mr. Bradley for suggestions for submissions. He inquired if Mr. Bradley had any questions on what should also be submitted. Mr. Bradley stated he wishes to obtain approval for his site plan review in order to commence construction and he inquired if there was anything further any of the Board Members would require to be submitted.

Chairman Cox stated the site plan requirements under Article 6 of Zoning Law were provided to Mr. Bradley. Mr. Bradley stated he would review item by item what is required in Section 4.8 Viewshed Protection Area.

Chairman Cox stated zoning law states a public hearing may be held on a preliminary application. Town Attorney Avigdor stated he would need the permission of Mr. Bradley to answer this technical question. Mr. Bradley stated he would allow the technical issues to be addressed by Town Attorney Avigdor. Town Attorney Avigdor stated he would agree with Chairman Cox that it would be a Planning Board decision if a public hearing would be necessary for a preliminary application. In reviewing zoning law, Chairman Cox stated it requires that a public hearing will be held on final submission. Town Attorney Avigdor agreed.

Chairman Cox stated Mr. Bradley has submitted his application for a site plan review and there are 22 items to be addressed; some of which may not be applicable. There was some confusion on the part of Mr. Bradley regarding Section 4.8.1 (Viewshed regulations) and the information which Chairman Cox is requesting which is contained in Section 6.3 under Site Plan Review, Article 6. Chairman Cox stated in Article 4.8.3, site plan approval is required making the requirements under Article 6 applicable in this application. There are some overlapping of requirements in both Article 4 and 6.

Mr. Bradley also submitted a completed application for Site Plan Review; completed SEQR; project description; sketch of the site which includes the proposed well; proposed septic tank and absorption field; proposed camp; distances to all property lines and existing driveway; GSL maps of surrounding parcels and corrected map of "Gobblers Knob" also known as the Steenberge driveway; and, accurate map of Bradley proposed driveway.

Mr. Bradley reviewed the sketch map of the electrical service which he stated was underground. Board Member Traeger inquired if the electrical trench would be through the woods. Mr. Bradley stated it would run parallel with the driveway for 100 feet and veer off from that point to the camp. Chairman Cox stated the concern would be at the point where it veers off to the camp and cutting of trees along that line and how visible that line would be in the viewshed. Mr. Bradley stated the driveway is serpentine. Chairman Cox stated he was aware of that but it was the area where it veers off from that serpentine driveway which raises concern. Mr. Bradley referred to the GSL tax maps of surrounding parcels which shows an incorrect depiction of the Steenberge driveway (Gobblers Knob), a correct version of the same and a final copy showing his new driveway off North Shore Road. He stated the utility line will follow the driveway as depicted in the GSL map of his proposed driveway as this is the only route National Grid will utilize. He stated National Grid will not go through woods.

Board Member Traeger stated National Grid customarily installs the first 100 feet and the customer runs the service underground to the structure. Mr. Bradley stated National Grid will run poles the length of the driveway. Board Members stated they were under the impression the electrical service would be installed underground. Mr. Bradley stated the only way it can be done is above ground with power poles. Town Attorney Avigdor stated in his experience

in this regard, National Grid will be responsible for maintenance and discourages underground lines due to the difficulty maintaining them. Mr. Bradley stated he attempted to bring his service from his neighbor's existing lines but was not able to enter into an agreement with him. He stated it will not be a visible line up the side of the mountain. It will be underground from the transformer to the structure.

- Section 4.8.2, 3, 4 & 5: A sketch labeled "Cleared Areas Not Visible..." indicates areas surrounding the structure which have been cleared along with existing forest screening. Mr. Bradley stated the dotted line around the structure will be enlarged for fire protection and safety and will be cleared an additional ten to 15 feet for a wider perimeter. All the areas surrounding the site for 360 degrees are covered by forest screening. Chairman Cox inquired if there would be any additional alterations to the driveway from the driveway towards the lake. Mr. Bradley stated to his knowledge it should not be cleared any further. However, when the septic system is installed, a handful of trees in that immediate area may have to be cut.

Board Member Brennan asked for a clarification for the location of the septic system in relation to the location of the lake. Mr. Bradley stated it was in front of the structure toward the lake. The field for the septic system is located quite far from the septic tank due to the topography of the land being low in the immediate area of the tank. Mr. Bradley stated his septic engineer visited the site, performed perk tests and sited the system in the areas indicated on the sketch labeled in the upper right hand corner "900' to Rear Property Line". Board Member Vaillancourt stated a field located such a distance from the tank is unfamiliar to him.

Mr. Bradley submitted sketches of his proposed structure from southeast, southwest, northeast and northwest views. Chairman Cox stated in regard to the ability to see the structure, while the balloons were not visible, he could see reflection off the writing on the balloons which would have a visual affect from that glare. If there were any additional cutting, the structure would be visible. Chairman Cox stated glare from the type of roof and outside lighting could add to visibility at different times of the day.

- Section 4.8.6: Mr. Bradley reviewed materials from LP Building Products Smart Side Trim & Siding which will be used for trim and siding with color chosen as beige, GAF 30 year Natural Shadow Shakeshield shingles in Hickory brown color for roofing, Andersen 200 or 400 Series Double-Hung Windows with white exterior frames, Hampton Bay Outdoor Dark Sky Wall Lantern with Motion Sensor (information provided indicated approved by International Dark Sky Association and greatly reduces light pollution) which will be installed on the front of the structure and Lowe's Secure Home 240 Halogen Motion Sensing Security Light to be installed on the sides and in the rear of the structure (with no mention of light pollution control on literature).
- Section 4.8.6 (f)(g) and (h) states "Windows shall be of tinted, non-mirrored, non-reflective glass" Mr. Bradley stated his initial selection of the Anderson 200 Series may have to be replaced by 400 Series due to the reflectivity issue of the glass. Board Member Vaillancourt inquired what materials the trapezoidal windows will be. Mr. Bradley stated they will be dual pane, clear glass. The Anderson Series glass is low E and the newest low E glass has not been rated. Currently low E is rated at 18% and 11% reflectivity. Mr. Bradley stated in order to have the least reflectivity, it would have to be replaced with monolithic glass which has little or no insulation (it consists of dual pane glass which has 1/16<sup>th</sup> separation between panes). He further stated he wishes to maintain the lowest possible E rating with the least amount of reflectivity. Chairman Cox inquired what the percentage of reflectivity in the monolithic glass. Mr. Bradley stated it was 5%.

Board Member Vaillancourt inquired if building code requires a certain amount of energy efficiency for windows. Town Attorney Avigdor stated there is for insulation within walls but did not know if there is for windows. He further stated the Viewshed Regulations state low reflectivity not a particular percentage. Chairman Cox stated it indicates non-reflective glass. Town Attorney Avigdor stated regardless of how that is interpreted; he did not believe this Board would wish the applicant to violate the building code. Board Member Vaillancourt believed building code calls for insulated windows. Mr. Bradley stated the way in which the house is angled and the presence of natural

screening, any reflectivity would be away from public view. He further stated there are 80 to 100' trees across 900' of land in addition to the fact that any reflectivity would be angled toward the ground.

The lighting on the outside of the structure would not be above the tree line and the building does not exceed 21 feet and all lighting is located below that measurement. Mr. Bradley further stated none of the outside lighting will be continuously lit.

- Section 4.8.6(a) and (b) Erosion: Mr. Bradley submitted a sketch labeled "Diagram of the Foundation" which outlines the depth of the foundation; how topsoil will be stored and ultimately used to grade; and, mulch will be utilized to prevent runoff during construction. In regards to fill, the only fill to be used will be for the septic system.

Chairman Cox asked for any questions from Board Members. Board Member Traeger inquired if a patio or deck is part of the building plans and if there would be continuous lighting in the evening hours. Mr. Bradley stated there would be a deck with hooded lighting on the front of the structures with motion detectors on the sides and back which are required by the building code for safety. Board Member Traeger inquired if a fire truck would be able to travel up the driveway. Mr. Bradley stated not at all times of the year.

Chairman Cox referring to Section 6, Site Plan Review, there are timeframe requirements and submissions to APA and Saratoga County Planning of the site plan. Saratoga County Planning review is required under Section 239 prior to a public hearing due to the parcel being within 500 feet of a county road (application states "front property line is ~ 250' feet from Route 4 – North Shore Road). Town Attorney Avigdor explained the County review to Mr. Bradley. If Saratoga County does have negative comments on this application, this Board would have to approve the application with a super majority (no less than 4 votes). He further stated APA has no authority to overrule the decision of the Planning Board. Mr. Bradley stated if the application is not approved with four votes, would the Board provide corrective remedies in order to receive an approval? Town Attorney Avigdor stated typically the Board does not but if the Board does articulate the issues, Mr. Bradley may be able to revise his application. The Planning Board would not provide ways to resolve those issues.

Chairman Cox stated no action would be taken by this Board until Saratoga County Planning reviews the application at their February meeting. When this Board receives that result, they will approve or disapprove the application and if approved, schedule a public hearing for the following month. The Board has an option to hold a public hearing for the preliminary application but must hold a public hearing for the final application. The Board agreed there would be no advantage to hold two public hearings but if the County does not make a substantive comment, this Board may waive the public hearing for the preliminary application. The Board will then take action on the site plan and schedule a public hearing for the final application for the following month. If there is public input which the Board must consider, the Board may not act on the application immediately after the public hearing. If the timeframe goes according to schedule, Mr. Bradley may have a decision in April or May.

Chairman Cox inquired if the driveway material would be changed? Mr. Bradley stated it would not. Chairman Cox stated Mr. Bradley must provide photographs from the structure toward the lake or the area which will most likely be seen from the lake prior to and after construction. These photographs would not be required for the preliminary application. The first set of photographs would be required for the April meeting and be submitted to the Secretary. Chairman Cox stated this would be a reference to show which trees existed at the time of that approval. He further stated if there is excessive thinning in excess of what was approved, the Town would then have to take action against the applicant.

Chairman Cox inquired of Mr. Bradley if he would grant the Board permission to visit the site when travel over the driveway is possible. Mr. Bradley granted his permission. Mr. Bradley stated there are stakes where the structure will be located which are currently 32 feet apart and the Board should be aware that the structure will be larger at 40 feet.

**ALLEN, Cheryl & Buddy**  
**ALLEN, Lehman & Sally Allen Rose**  
**Tax Map #24.-2-12.1 & 24.-2-54**  
**Boundary Line Adjustment**

The Board is in receipt of a memo from the Town Assessor. Chairman Cox stated this information would be in particular interest to the Town Attorney and inquired if Town Attorney Avigdor received a copy. He stated he did. Board Member

Mirczak inquired if the Board would take any action on the points in the memo from the Town Assessor. Chairman Cox stated they would not, that he did not believe the Town Assessor intended the Board to take any action and the memo was only to inform the Board why he forwarded the information to them.

**New Business:           Boundary Line Adjustment Application Revision**

Board Member Mirczak inquired of Town Attorney Avigdor: In regard to “drawings and/or maps which depict...” as stated in the application, would either term – drawings or maps – be more appropriate? Town Attorney Avigdor stated neither are legal terms and the Board should chose the term which retrieves the information they are requesting. If the Board does not receive the requested information, they will direct the applicant to submit it. In that case, Board Member Mirczak stated he would leave both terms in the application.

The title page will be converted into a checklist for additional clarity to the applicant that a map or drawing is an important part of the application. There will be an addition to the statement (in italics): “(a) the existing condition and boundary lines before adjustment, including areas and dimensions *and locations of septic systems, wells, and structures; if they exist...*”

**Correspondence:**   None.

**Secretary’s Report:** Reminder for the GIS Training provided by Saratoga County Planning on Monday, February 22<sup>nd</sup> at 7 p.m.

All Board Members attended the Saratoga County Planning Conference held in January and will be credited with six hours of training.

Board Member Vaillancourt attended a training seminar in the Town of Hadley in November. The Secretary will review the Yearly Report to be certain these hours were included.

Chairman Cox stated he believed the Bradley application, being it is the first application in the Viewshed Regulations, is a good starting point considering the location of the structure is not on the mountain top but located further back. Board Member Traeger stated his concern is the outside lighting being visible at night. Chairman Cox stated if Mr. Bradley installs what he has submitted at this meeting, they should be acceptable. It would not be possible to cloak the area in total darkness at night. Board

Member Vaillancourt stated his concern is more with the glare off the glass but since it is all on an angle and not reflective, it should be acceptable. Board Member Traeger stated it may be visible from a different angle to the southwest.

**Motion** by Ted Mirczak, seconded by Board Member Traeger to adjourn the meeting at 8:15 p.m. Ayes: Cox, Mirczak, Brennan, Traeger, Vaillancourt. Carried: 5-0.

Respectfully submitted,

Diane Byrne  
Secretary