

TOWN OF DAY PLANNING BOARD REGULAR MEETING – JANUARY 4, 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 Traeger to approve the minutes of November 2, 2009 with the following correction: Page 1, paragraph one, “Abstention: Brennan” to “Abstention: Mirczak”. Ayes: Cox, Mirczak, Brennan, Traeger, Vaillancourt. Carried: 5-0.

Old Business: **BRADLEY, Alan R. Jr. PB09-06SPR
Tax Map #42.-1-73, Viewshed Location**

Mr. Bradley did not contact any Board Members since the November meeting and did not appear before the Board at this meeting. Discussion tabled to the next meeting when Mr. Bradley appears.

New Business: **HALL, Thomas/STANGLE, Edward
PB09-07BLA Tax map #41.-1-73.2 & 41.-1-79
Boundary Line Adjustment**

Mr. Hall did not appear and the Board stated the information submitted was not complete. There are a number of drawings which were submitted but none indicate what is being adjusted.

Board Member Mirczak provided each Board Member with suggestions for boundary line adjustment application modifications which included the following:

- Page 1 would be adequate in identifying the involved parties.
- Page 2 would have the following modifications: There would be a requirement for an attachment of drawings which clearly depict (1) the existing condition and boundary lines before adjustment, including areas and dimensions; and, (2) the conditions and boundary lines after adjustment including areas and dimensions.

- When different parties are involved, the signatures of an owner or representative of each parcel must be on the application.
- Without all required submissions, the Board will not act on the application.

Town Attorney Avigdor stated in the past, a boundary line adjustment was approved with the signature of only one of the property owners and it was questioned by the Supervisor. In this instance, the Board did not take action, only the property owners can take action. Both parties would be required to make the adjustment. It would be appropriate to act on only one signature but the Board could add the requirement for signatures of both involved parties. All Board Members agreed to add the requirement of all signatures and the additional requirements of map submissions. If there are multiple owners of a single parcel, one of the owners or representative of the owner(s) would be required to sign for each of the parcels in question.

The Secretary will make the necessary changes in the application and formulate a checklist and email it to Board Members for discussion at next month's meeting.

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

The Secretary stated Town Assessor Nealon presented information to her regarding a possible boundary line adjustment and believed it should have been presented to the Planning Board. Town Assessor Nealon requested that the Planning Board clarify this matter. Chairman Cox stated it appeared to be a correction of survey lines and not a transfer of property which would not be under the jurisdiction of this Board.

Town Attorney Avigdor stated the only way to know for certain would be to search the County Clerk's Office and that would be costly. He further stated he has been the attorney of record for Cheryl and Buddy Allen and he has not been involved in any recent transfer of property. He stated this may have been a correction of a better understanding of deeds in the past. Chairman Cox stated a true boundary line adjustment would require revised deeds where a correction would not. Town Attorney Avigdor stated if the parties did not file any new deeds or boundary line agreement; it would have to be a correction.

Board Member Mirczak stated if a map were filed, the County would ascertain that it had not been signed by the Planning Chair or if it were a boundary line agreement, an affidavit would be obtained from the Planning Board. If neither of these were presented, this Board would be notified. Town Attorney Avigdor stated that was correct in the case of a map but not in the case of deeds.

Board Member Vaillancourt stated it would appear from the before and after maps that a line has been moved. Town Attorney Avigdor stated was there truly a change or simply a correction of a misinterpretation of what was in the records. County Real Property Department does not go out into the field but receives map filings and tries to piece together the entire County by miscellaneous maps and deeds. The safeguard in this is the individual property owner refuting Real Property's mapping and submitting corrected maps or deeds. It is difficult for Town Attorney Avigdor to make a decision either way and this Board is not an investigative agency and he did not believe there is money in the budget to cover a search. If an individual comes before this Board with information of a violation, the Board could proceed. However, there is not sufficient information to reach that conclusion.

Board Member Mirczak stated since the Town Assessor brought this matter to this Board's attention, the Board would need a statement from the Town Assessor stating what his concerns are or what information he has which makes him believe it is a problem which include a County Clerk's filing by the landowner. Chairman Cox stated the correction resulted from a survey completed by a surveyor hired by Buddy Allen. Board Member Mirczak stated in spite of a substantial change in acreage, 15 additional feet will not allow an additional building right.

All Board Members agreed to direct the Secretary to inform Town Assessor Nealon this appears to be a survey correction and unless this Board has further information, there is nothing within this Board's jurisdiction to do further.

Correspondence: Members were provided with Capital Commons Quarterly for their information.

All members were provided with a packet of information regarding Planning Subdivision and Site Plan Checklists to review and discussion will follow at next month's meeting.

Board Member Mirczak stated in general all application information should be updated for clarity with an issue date on the bottom of each application. Town Attorney Avigdor stated that while it would be helpful to indicate this on all applications, it is not required that any application form be submitted as long as the submitted information is complete. It is seen as a citizen's right to present the information any way they choose. It is noted that the application form is a very useful guide and would be beneficial to promulgate it with a date on the bottom of when it was issued.

Saratoga County Planning Conference – January 25, 2010

The cutoff date for registrations is January 11th and any Board Members who wish to attend should submit their registration by Thursday, January 7th. Attendance at this conference would fulfill the training requirement for this year.

Secretary's Report: GIS training is scheduled for Monday, February 22nd at 7 p.m. to be held at Town Hall by Jason Kemper and Troy Hilts of Saratoga County Planning.

All Board Members were provided with the ZBA minutes of December 21st regarding the Interpretation of Temporary Buildings. Board Member Mirczak stated this would be referred to the Comprehensive Plan Committee and they could make it part of their recommendations for changes to Town Zoning Law. In particular, this interpretation as well as the terms relating to it is very ambiguous. The issue was to address temporary structures but the final motion did not contain any mention of temporary structures. Chairman Cox stated that was due to the fact there is no definition of temporary structures. Board Member Mirczak stated that was his point.

Town Attorney Avigdor stated the issue was to discuss temporary structures. However, since there is no definition of temporary structures, those temporary structures were referred to as "things". There are structures and there are "things" which are not defined and the final question was: Are the "things" now defined as structures which have typically been framed in aluminum or steel and historically covered in nylon and used for a carport but have evolved into sheet metal roof and sides? Are these structures under Town of Day definition in Zoning Law which would now have to meet setback requirements? The Zoning Board determined it would be a structure but narrowly defined it as only the buildings in the submitted materials of CEO Metzler. In the future, if CEO Metzler believes a building would fit the same description or be

larger, he will require a building permit. However, if it is substantially different, he will refer it to the Zoning Board for their interpretation. He further stated it is wise for a Board to make a narrow decision.

Motion by Ted Mirczak, seconded by Board Member Brennan to adjourn the meeting at 7:30 p.m. Ayes: Cox, Mirczak, Brennan, Traeger, Vaillancourt. Carried: 5-0.

Respectfully submitted,

Diane Byrne
Secretary