

TOWN OF DAY PLANNING BOARD REGULAR MEETING – NOVEMBER 3, 2008

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

Members Absent: None

Motion by Jack Vaillancourt, seconded by Board Member Traeger to approve the minutes of the October 6, 2008 meeting. Ayes: Cox, Brennan, Mirczak, Traeger, Vaillancourt.

Old Business: **Proposed Local Law Relating to Amending Town of Day
Subdivision Law**

Chairman Cox stated Town Attorney Avigdor has written the revisions of local law regarding gift lots and subdivisions by road. Board Member Mirczak stated under B, paragraph three, there are two sentences which he felt were redundant: “Any lots so created, therefore, will not be preexisting lots under the Town Zoning Ordinance, and will not be buildable lots unless they meet the requirements of the Zoning Ordinance.” Second sentence: “However, the parcel being conveyed pursuant to this exemption for a landowner’s entire ownership on one side of a dedicated public road shall not result in the creation of a building parcel unless the premises otherwise comply with the Town of Day Zoning Law and with all other applicable laws.” Board Member Mirczak suggested removing the first sentence because it seems to be redundant. Town Attorney Avigdor stated he had drafted an earlier version which addressed only gift lots and that version was submitted to the Adirondack Park Agency. APA returned the version with the second sentence revision. Town Attorney Avigdor stated in an attempt to appease APA, he included their revision.

Board Member Mirczak stated if a parcel is subdivided by a road, the newly created lot would not be buildable unless it meets all building code requirements and all other applicable laws. He stated the first sentence could be negated. Town Attorney Avigdor stated he would not be attending the Town Board meeting next Monday but would notify Supervisor Johnson that he would recommend the Town Board make a resolution that this is a local law which they should look favorably on adopting. He further

stated upon submission to APA, it could state that while the Board looks favorably on adopting this, a Planning Board Member raised a point that those two sentences may be redundant. The APA revision sentence would be added to local law, the preceding sentence would be removed and it would be dealt with it on an administrative level.

Chairman Cox inquired if the change would offend APA. Town Attorney Avigdor stated he did not believe it would. Chairman Cox stated he also felt the first sentence should be removed. Board Member Mirczak stated it would help clarify the change and lessen the confusion. Town Attorney Avigdor stated he would make the change and email the corrections.

Board Member Mirczak inquired about the significance of the dates of August 1, 1973 and May 22, 1973 as stated on Page 2 of the local law change. Town Attorney Avigdor stated when the Legislature adopted APA law, they did not designate a single effective date and some provisions of Adirondack Park Agency law became effective May 22, 1973 and others became effective on August 1, 1973 and our revision does key into that.

Motion by Eileen Brennan, seconded by Board Member Mirczak to forward the revision to the Town Board for their approval deleting the first sentence "Any lots so created..."
Ayes: Cox, Mirczak, Traeger, Brennan, Vaillancourt. Carried: 5-0.

**Lyons, Barry/McCray, Stephen PB07-05BLA
Tax Map #32.19-1-14 & 32.19-1-15**

Chairman Cox stated Mr. Lyons and Mr. McCray approached the Board to determine whether their proposal would be a boundary line adjustment and the Board agreed it was and would be exempt from their jurisdiction. The Town Assessor reviewed the final disposition of the lots and found the contract of sale was missing the signature of the current owner. Town Attorney Avigdor stated since the signature was missing, it should not have been considered by the Board. However, since it was non-jurisdictional, it did not matter that the Board considered it because no action was taken. Board Member Mirczak stated Mr. Lyons signed the application representing himself as the owner of the parcel which the Board accepted on good faith. Town Attorney Avigdor stated Mr. Lyons may have committed perjury and it could have been referred to the authorities but this Board has not done anything which needs to be reviewed and redone. He further stated that would be where the remedy would be and not with this Board. Board Member Mirczak stated the outcome of the action would not have been any different

if Mr. Lyons had waited until the sale was completed. Chairman Cox stated once this Board determined it had no jurisdiction, their involvement ended there. Board Member Traeger stated Mr. Lyons appeared before this Board twice. At an informational meeting in May, he was notified by this Board that he would need to own the parcel in order to make the boundary line adjustment. In June, he reappeared before signing the application as owner. Chairman Cox stated he was in agreement with Town Attorney Avigdor's statement.

Correspondence: CoHousing Workshop/Forum to be held in Albany on November 14, 2008. There was no interest.

Secretary's Report: None.

Public Participation: None.

Motion by Dick Traeger, seconded by Board Member Vaillancourt to adjourn the meeting at 7:20 p.m. Ayes: Cox, Mirczak, Traeger, Brennan, Vaillancourt. Carried: 5-0.

Respectfully submitted,

Diane Byrne
Secretary