

**TOWN OF DAY ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
JUNE 19, 2006**

Members Present: Kearney Mason, Chairman **Members Absent:** None
Judy Traeger
Pat Volpe
Hank Lang
David Avigdor, Attorney

Chairman Mason called the meeting to order at 7 p.m.

Minutes Motion was made by Judy Traeger and 2nd by Board Member Lang to accept the minutes of May 15, 2006 regular meeting.
Ayes: Kearney Mason, Judy Traeger, Pat Volpe, Hang Lang, Ray Ives. Carried 5-0.

New Business **Fedorowicz, John & Laura 06-01ZBA
Tax Map #43.6-2-10 (Area Variances)**

Board Member Ives stated he had questions regarding the Fedorowicz application: that the application had not been signed, what zoning district was it in and what the variance being requested is. Chairman Mason stated it was in lakefront residential. Attorney Avigdor stated the variances requested are for road frontage and area. He further stated the submitted sketch plan proposes subdividing along the dotted line and up the center of two lots of 2.045 acres in lakefront residential zone which requires 1.3+ acres or 60,000 square feet with 150 feet road frontage. The application shows 268 feet of road frontage, which shows a deficiency of 32 feet. Attorney Avigdor stated that a survey map is not required by the ZBA unless they feel it is necessary but will be required by the Planning Board.

Chairman Mason referring to the submitted sketch plan inquired which lot the small triangle on the opposite side of North Shore Road would be part of and could that square footage and road frontage be added. He did not know if this would bring it up to compliance. Attorney Avigdor stated it would make a difference and a restriction should be placed on it so that it would never be developed thereby contributing to the open space of the Town. He inquired of the applicant if she knew the square footage and road frontage on this triangular piece of land. Mrs. Fedorowicz stated she did not. Attorney Avigdor stated the Board might feel

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comfortable with 135 feet of road frontage because the opposite of the road will not be developed. Board Member Traeger stated it would still be short.

Board Member Lang inquired if Mrs. Fedorowicz owned the adjoining property of 53 acres. Mrs. Fedorowicz stated she did not own that piece of property but the other adjoining parcel of 7 acres. Board Member Lang stated he had the boundary use agreement and inquired what the Fedorowiczs intended to do. Mrs. Fedorowicz stated they plan on moving here in the future as year round residents and on the 7-acre parcel they wished to construct a barn. Attorney Avigdor stated he represented the sellers of the 7-acre parcel, which was added to an existing parcel the Fedorowiczs owned.

Board Member Lang stated after reviewing the tax maps, why Mrs. Fedorowicz did not adjust the boundary lines to make the lots an acceptable size and not need the area variances. Mrs. Fedorowicz stated the location of the road and how narrow that area is would make doing a boundary line adjustment very difficult. Discussion ensued on the tax map to determine the acreage of the Fedorowicz parcels and the existing road frontage.

Attorney Avigdor stated the Fedorowiczs would like to build a home on the larger parcel based on view and the best location for a building and this happens to be close to the property line. He further stated this is a subdivision, which cannot be done because of zoning laws. Board Member Ives stated these would be two substandard parcels. Board Member Lang stated they would be 80% of the requirement. He inquired when Mrs. Fedorowicz purchased the property. Mrs. Fedorowicz stated three months ago. Chairman Mason inquired if the location of the proposed house was determined prior to the purchase of this property. Attorney Avigdor stated that would be a planning issue along with water supply and septic systems. He stated further that this Board should be concerned with whether they are comfortable creating lots that are substandard in acreage and road frontage.

Board Member Lang inquired of the applicant if there were any other information they wished to bring before the Board to help with their decision. Mrs. Fedorowicz stated there was none. Attorney Avigdor stated the legal standard would be to determine if it would be a benefit or detriment. He further stated the Board

would consider five criteria (he reviewed the Area Variance Criteria) and while the applicant does not have to meet all five, the Board must consider them in their decision. Mrs. Fedorowicz stated she did not feel it would disrupt the land or the neighbors around them as the lots are quite large. She further stated that since they own the property behind this parcel, they could do a boundary line adjustment. She was reluctant to change the boundary lines which run next to the property line because of the existing road, which intersects with their road which accesses the lake.

Attorney Avigdor stated the Board was indicating it would have difficulties granting the area variances. He further stated that the applicant should reconfigure the lots with adjustments to the total acreage to meet the requirement and resubmit an application for road frontage variances at next month's meeting if it were agreeable to Mrs. Fedorowicz. Mrs. Fedorowicz agreed to resubmit the application and submit a new sketch plan. Attorney Avigdor stated she would need to increase the total acreage on that parcel to 2.8 acres with a lot restriction on the triangular parcel across the road. He further stated applying for only one type of variance was easier than both types. Board Member Volpe stated it was one less for this Board to consider.

Attorney Avigdor stated Mrs. Fedorowicz was asking this Board not to proceed on the current application but that she would return next month with an amended application. He further stated this application would be held open for six months. Board Member Lang inquired if the application time limit would restart with the resubmission of this application. Attorney Avigdor stated the six-month rule is to close out stale applications. He further stated Mrs. Fedorowicz's application would remain open unless there is no substantial progress.

Correspondence The Secretary stated the only correspondence was the conferences being offered for training. There was no interest in attending.

Secretary's Report None.

Adjourn

At 7:40 p.m. a motion was made by Board Member Ives and 2nd by Board Member Volpe to adjourn the meeting. Ayes: Kearney Mason, Ray Ives, Judy Traeger, Pat Volpe, Hank Lang. Carried 5-0.

Respectfully submitted,

Diane R. Byrne
Secretary