

**TOWN OF DAY ZONING OF APPEALS
MINUTES – REGULAR MEETING
JUNE 18, 2007**

Members Present: Hank Lang, Chairman
Judy Traeger
Pat Volpe
Dave Davidson
Ken Johnsen
David Avigdor, Attorney

Members Absent: None

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

**Old Business: MURPHY, Peter & Jean 07-03ZBA
Tax Map #43.14-1-16 Area Variance**

Chairman Lang stated no action would be taken until this Board receives a decision from the County. Board Member Volpe stated the application would be incomplete. Attorney Avigdor stated the application is complete but that no action is being taken at this time.

Attorney Avigdor stated the following is state law and not Town law and these would be the standards for consideration of variances: “In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created,…” He further stated if an applicant constructed a home first and then approached the Board for a variance to build a garage and stated the need for the variance was due to the house placement this would be self-created. Attorney Avigdor also read: “The Board of Appeals, in granting of area variances, shall

grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

Attorney Avigdor stated a Zoning Board Member should consider all those criteria prior to granting a variance and take into consideration the actual facts. He further stated if this Board were ever sued, the materials submitted would be taken into consideration along with how this Board articulated those facts. Chairman Lang stated this Board is a quasi judicial body whose decision is based on the discussion of the evidence placed before it.

Mr. Murphy stated the construction of the garage and porch would increase the total buildings to 27% rather than the restricted 25% of total buildings covering the parcel.

Approve Minutes Motion by Judy Traeger, seconded by Board Member Volpe to approve the minutes of May 21, 2007 meeting with the following change: Page 1, New Business, Motion “Carried 4-0” from “Carried 4-1” (abstentions would not be counted as a negative vote). Ayes: Hank Lang, Judy Traeger, Pat Volpe, Dave Davidson, Ken Johnsen. Carried 5-0.

Old Business **PRITCHARD, Robert & Erika 07-02ZBA**
Tax Map #33.11-1-10 Area Variance

Chairman Lang stated the additional information requested from the Pritchards was received. Board Member Davidson will recuse himself. Attorney Avigdor stated he will also recuse himself as he has represented the Pritchards on this parcel. He stated if any legal issues should arise on this application; the Town would have to find other counsel. Chairman Lang inquired if Attorney Avigdor could address any procedural matters. Attorney Avigdor stated he could only comment if the Pritchards were present to give their consent. However, if they were not present, he would be unable to address any issues regarding this application.

Motion by Judy Traeger, seconded by Chairman Lang to accept the application as complete. Ayes: Hank Lang, Judy Traeger, Pat Volpe, Ken Johnsen. Abstention: Dave Davidson. Carried 4-0.

New Business None.

Correspondence Planning and Zoning Summer School in Hyde Park, Geneseo or

Clinton, New York to fulfill the four hour training requirement is offered for Board Members. There was no interest.

Motion by Judy Traeger, seconded by Board Member Johnsen to schedule a Public Hearing for Robert and Erika Pritchard on Monday, July 16, 2007 at 7 p.m. Ayes: Lang, Traeger, Johnsen, Volpe. Abstention: Dave Davidson. Carried 4-0.

Board Member Davidson inquired if the neighbors within 500 feet have been notified. Board Member Traeger stated they would be now that a Public Hearing has been scheduled.

Secretary's Report None.

Public Participation None.

Board Member Volpe stated in regard to a previous decision in the Lemma application, he wished to discuss various matters. Attorney Avigdor stated there is currently no application before this Board regarding Mr. Lemma and nothing to discuss.

Adjourn At 7:45 p.m. a motion was made by Ken Johnsen and 2nd by Board Member Traeger to adjourn the meeting. Ayes: Lang, Volpe, Traeger, Johnsen, Davidson. Carried: 5-0.

Respectfully submitted,

Diane R. Byrne
Secretary