

**TOWN OF DAY ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
JULY 16, 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: PRITCHARD, Robert & Erika 07-02ZBA
Tax Map #33.11.1-10 Area Variance**

After conducting the Public Hearing, Chairman Lang reopened the Regular Meeting at 7:30 p.m. Chairman Lang stated this Board has 62 days to reach a decision and due to the comments received at the Public Hearing, he would suggest the Board defer their decision tonight. He stated each Board should visit the property of each individual who spoke this evening. He further stated the decision of this Board would be made at open meeting and the Secretary will notify the Pritchards when that decision will be made.

Attorney Avigdor acted as a legal counsel to the Pritchards previously and recused himself from legal discussion in this application but would consent to answering procedural questions with the consent of the Pritchards. Mr. and Mrs. Pritchard consented to Attorney Avigdor answering this procedural question. Attorney Avigdor stated that while it is correct that the Board has 62 days to come to a decision, they should consider at this time whether the notice was adequate which was sent to the adjoining property owners. He stated if it were determined not to be adequate, the application would be still pending and the Board would determine if another notice be required and would the Public Hearing be legitimate.

Chairman Lang stated he would suggest a vote be taken among the ZBA Members to determine if the notice was adequate for public consideration. Board Member Johnsen stated a clarified notification letter should be sent out so there is no question whether it would be a use or an area variance. He further stated if

a notification were sent pertaining to usage rather than an area variance, neighbors may not be interested in attending the Public Hearing. Board Member Johnsen also stated the explanation of what the applicant was applying for, i.e. number of feet in the area variance versus just "24 x 24 garage" should be more specific. Board Member Volpe stated he agreed with Board Member Johnsen and felt it was misstated but was not intentional. Board Member Traeger stated she considered the notice and explanation sufficient. Chairman Lang agreed with Board Member Traeger. Chairman Lang stated that because it was a split decision, no decision was made. Attorney Avigdor asked the Pritchards permission to answer a procedural question. The Pritchards granted permission. Attorney Avigdor stated a Public Hearing was held which the Board opened and closed. He further stated Board Member Johnsen took action to void the Public Hearing but it failed and the Hearing was closed.

Motion by Ken Johnsen, 2nd by Board Member Volpe to void the Public Hearing, require a new neighbor notification clarifying the application specifics and legal notice. Ayes: Johnsen and Volpe. Nays: Lang and Traeger. Motion failed: 2-2.

Board Member Johnsen stated he would like the Secretary to provide the addresses of all interested parties in order to make a site visit. The Secretary will provide the information to all Board Members. Board Member Johnsen asked for permission to visit the Dwyer/Crofoot residence. Both individuals gave their permission. Board Member Davidson who had recused himself at last month's meeting because he is also an adjoining neighbor stated he did not receive a notification letter. The Secretary stated the Maphost site which is being utilized to determine the adjoining property owners was the source used.

Chairman Lang stated that since this discussion took place after the Public Hearing and the Public Hearing was opened without Board Members having the knowledge of problems with notification, it was determined that a new Public Hearing be held and new neighbor notifications be made. Attorney Avigdor stated the difference between a use and an area variance.

Motion by Chairman Lang, 2nd by Board Member Traeger to defer any further consideration of the Pritchard application until the August meeting and require a new legal notice and notice of adjoining neighbors be made. Ayes: Lang, Volpe, Traeger, Johnsen. Abstention: Davidson. Carried: 4-0.

Approve Minutes Motion by Ken Johnsen, seconded by Board Member Traeger to approve the minutes of the June 18, 2007 meeting. Ayes: Lang, Traeger, Volpe, Johnsen, Davidson. Carried: 5-0.

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

Chairman Lang stated Mr. Murphy had contacted this Board to request any action be deferred on his application until next month pending new recommendations from Saratoga County Planning.

Motion by Chairman Lang, 2nd by Board Member Johnsen to defer any action on the application of Peter and Jean Murphy until the August meeting. Ayes: Lang, Traeger, Volpe, Johnsen, Davidson. Carried: 5-0.

New Business Paul McLain submitted an application for an area variance at this evening's meeting. Chairman Lang stated copies of the application would be provided to all members and it would be on the agenda for the August 20th meeting to consider if it would be complete.

Secretary's Report None.

Public Participation None.

Adjourn At 7:55 p.m. a motion was made by Judy Traeger and 2nd by Board Member Volpe to adjourn the meeting. Ayes: Lang, Traeger, Johnsen, Davidson, Volpe. Carried: 5-0.

Respectfully submitted,

Diane R. Byrne
Secretary