

**TOWN OF DAY ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
OCTOBER 19, 2009**

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

Chairman Johnsen opened the meeting at 7 p.m.

Board Member Traeger requested that Town Attorney Avigdor clarify road frontage requirement. She was unable to find the location of that verbage in zoning law. In particular, there was an application in which only a right-of-way accessed the proposed subdivision and it was denied and the party was informed they could not build on the lot. Town Attorney Avigdor stated Board Member Traeger related two separate facts: the subdivision was denied and the lot was unbuildable. In this application, the landowner was unable to subdivide. He further stated there are pre-existing grandfathered lots located in the Town of Day which existed prior to the passage of Subdivision Law and are legal building lots.

In reference to where that requirement is located within Zoning Law, it is under Article 4, Sections 4.1 through 4.6, referring to minimum lot width of each Section. Board Member should then reference Appendix D – Definitions, Lot Width - The distance between the boundaries of a lot, at the street right of way line along a public road, measured as nearly as practical perpendicular to the depth of the lot. With respect to lots which contain shoreline or are contiguous with lands of the Hudson-River Black River Regulating District surrounding Great Sacandaga Lake, or are within the applicable building setback distances from a shoreline, "Lot Width" shall mean the smaller of (a) the distance between the boundaries of a lot, at the street right of way line along a public road, measured as nearly as practical perpendicular to the depth of the lot, or (b) the distance between the boundaries of a lot at the shoreline, or if there is no shoreline then at the border with the Hudson River-Black River Regulating District, or if there is no such border then at the end of the lot closest to the applicable shoreline, measured as nearly as practical perpendicular to the depth of the lot.

Town Attorney Avigdor further explained if a lot exists that is, for example, 130 feet wide but the road has curves and if measured along those curving lines, it increases the frontage to 150 feet, the lot width is 130 feet. Therefore, to make the standard the same whether the road is straight or curved, the Zoning Law was written not to the term road frontage but rather lot width.

Town Attorney Avigdor stated lots can be measured at the water. However, if an individual wishes to create a pie-shaped lot which would meet the requirement at one end of the lot and not at the narrow end, it would not meet the requirement. Board Member Volpe inquired if it meets the frontage requirement at the road, it would constitute a lot. Town Attorney Avigdor stated the smaller of the two dimensions would be applied to the frontage requirement. To review, Town Attorney Avigdor stated any lot which exists is a bona fide lot. This is a discussion of new lots and this Board does not deal with these matters. The Zoning Board is not charged with the creation of subdivisions but only with granting area variances for those conditions which are under the requirement of Zoning Law.

Motion by Dave Davidson, seconded by Board Member Volpe to approve the minutes of September 21, 2009 meeting. Ayes: Johnsen, Volpe, Traeger, Davidson. Carried: 4-0.

Old Business: None

New Business: None

Correspondence: Article “Within the Definition of ‘Agricultural Use Structures’ and Therefore Exempt from Adirondack Park Agency Jurisdiction” which involves obtaining a building permit to construct three single-family dwellings on a farm for purposes of providing housing for farm workers. Chairman Johnsen stated he is supportive of the decision of appeals court.

Secretary’s Report: Jason Kemper, Saratoga County Planning Director, has offered to provide GIS training to both Boards and this training will be offered at the December Planning Board meeting in lieu of any agenda items. Otherwise, it will be moved to the January meeting.

Board Member Volpe stated he wished to be advised of the annual training conference which will be held in January.

Public Participation None.

Motion by Chairman Johnsen, seconded by Board Member Traeger to adjourn the meeting at 7:10 p.m. Ayes: Johnsen, Davidson, Traeger, Volpe. Carried: 4-0.

Respectfully submitted,

Diane Byrne
Secretary