

**TOWN OF DAY PLANNING BOARD
REGULAR MEETING
APRIL 2, 2012, 7 P.M.**

Members Present: David Cox
Ted Mirczak
Jack Vaillancourt
Eileen Brennan
Dick Traeger

Members Absent: David Avigdor,
Town Attorney

Motion by Ted Mirczak, seconded by Board Member Vaillancourt to approve the minutes of March 5, 2012. Ayes: Cox, Mirczak, Vaillancourt, Traeger. Brennan. Carried: 5-0.

New Business: **LOCKEY, Raymond**
 Tax Map #42.-2-22.12 & 23 & 24
 Revert to Tax Parcels Prior to 2003 Subdivision

Dave Barrass, representing Raymond Lockey, submitted a survey map of the Lockey parcels along with the original survey map from 2000 which indicated the original configuration of the parcels. In 2001, in order to locate each structure on a single lot, the parcels were merged and re-subdivided into two lots. Mr. Lockey would now like to amend this subdivision to restore the original vacant lot to its original configuration but retain the two lots each with an existing structure from the 2001 subdivision.

Board Member Mirczak inquired why the third lot was merged. Mr. Lockey stated on the advice of his attorney and because the third lot was going to remain as green space/buffer, it was merged into the center lot with an existing structure. It would also alleviate an additional tax bill. However, at the time of the merger, his attorney was not aware there were two encumbrances on the third vacant parcel. A title search was not done because it was the property of Mr. Lockey but would have been done if it was in the ownership of someone other than Mr. Lockey.

Mr. Lockey stated he is now approaching retirement and is unable to obtain a reverse mortgage due to these encumbrances clouding the title of his house. If the vacant lot was restored, the encumbrances would remain with this lot only. Mr. Lockey has been unable to obtain a reverse mortgage from three different companies.

Chairman Cox stated this Board cannot approve any subdivision with substandard features in it (i.e. the vacant lot has only 150 feet of road frontage where 200 feet are required). The lot configuration cannot be reversed because the lots which exist at present are not grandfathered and are all newly created lots as of 2001. Mr. Lockey stated if he was advised correctly by his attorney, he would not have merged his lots.

Chairman Cox stated Mr. Lockey could follow the following sequence:

- ∞ Submit a subdivision application to the Planning Board which would be denied due to shortage of road frontage.
- ∞ It would be referred to the Zoning Board and that Board would make the determination to approve or deny his application for an area variance for road frontage.
- ∞ If the Zoning Board denies Mr. Lockey's application, the process would end. It was noted that the total road frontage is in excess of 600 (617) feet if Mr. Lockey wished to have the survey map redrawn to allow for sufficient frontage on each lot.

Mr. Lockey stated he would be willing to put a deed restriction on the vacant parcel to restrict any development of the lot. Chairman Cox stated this Board cannot approve any subdivision with substandard features and the grandfathering ceased at the time of the merger in 2001. Board Members agreed it would be a better option for the Town in regards to density if a deed restriction prohibiting development was included. Mr. Lockey stated his preference would be to retain the original vacant lot with a deed restriction that it remain undeveloped. Mr. Lockey could contact Town Attorney Avigdor prior to the May meeting to determine if this would be feasible.

Board Member Mirczak stated another consideration that Mr. Lockey needs to consider is tax implications of splitting the lots. The taxes would increase if there were three lots instead of two. Mr. Lockey stated it would not be an issue if his taxes increased. Chairman Cox stated Mr. Lockey should include in his application that he is willing to put a deed restriction which would run with the land to prevent any development of the vacant lot.

All parties agreed to table the application pending Town Attorney Avigdor's review and whether the proposed deed restriction would be feasible. If this proposal is unapprovable, Mr. Lockey will have the survey map redrawn so all parcels have the required road frontage. Board Member Vaillancourt inquired if shifting road

frontage from the parcel containing Mr. Lockey's house would still cloud the title. Mr. Lockey stated he was uncertain but was advised the best configuration was to return the vacant parcel to its original configuration. Chairman Cox stated the encumbrances would be attached to whatever the configuration of the vacant lot becomes. If Town Attorney Avigdor informally advises Mr. Barrass that the proposal of a deed restriction would not be workable, an application will be made to the Zoning Board.

Mr. Lockey inquired if it would be advantageous to apply to the Zoning Board. Chairman Cox stated he would not be able to speak for the Zoning Board but they would have to consider specific criteria to be weighed against their decision. Mr. Lockey inquired if it would be possible to create three lots with two forever linked through deed descriptions. Chairman Cox stated it must become one contiguous lot with one tax number.

Cochrane, Robert/ Garrahan, Colleen
Prior Tax Map #42.8-1-55
New Tax Map #42.8-1-55.1 & 55.2
Possible Illegal Subdivision

Chairman Cox stated Saratoga County Real Property notified the Town of Day of the possible illegal subdivision of the referenced parcels. This information will be tabled pending Town Attorney Avigdor's review. The location of the parcels is Lakeview Terrace off South Shore Road. The submitted diagram indicates substandard lots with notations of 55.1 and 55.2.

4M GROUP LLC (Walter Mowle, Manager)
PB12-04SPR
Tax Map # 33.6-1-33.31
Site Plan Review

Board Members reviewed the submitted application along with drawings/photos and were unable to determine from those materials the extent of the shoreline work. It appears low lying areas will be filled. A photograph depicting trees with orange tapes was submitted and it is unclear if the fill will reach those tapes which will require more than ten yards of fill and would result in the deterioration and ultimate destruction of the trees. There is a total of 204 feet of shoreline area. It would appear the center area of this permit is being leveled which not affect any of the surrounding property owners.

Board Members stated in light of the fact that the applicant did not appear to clarify questions they had, a site visit would be necessary. It was noted that permission to visit the site was given upon the applicant signing the application.

The application will be tabled to the May meeting. If there are any further questions and the applicant does not appear at the May meeting, a letter will be sent for clarification. It was also noted that Board Members received the application at the beginning of this meeting and there was not adequate time for a field review. Board Member Mirczak inquired if there was a time requirement for submission of applications. The Secretary stated she will review zoning and subdivision law for the same. Board Member Mirczak stated if there is not a time requirement regulation in existing law, because the LLRC is making changes, this would be the time to add a time requirement. Board Member Mirczak stated this may be a State regulation. Chairman Cox stated Town Board requires agenda items be submitted ten days in advance of the meeting. The Secretary was directed to send a letter to the applicant stating why the application was not acted upon at this meeting.

Board Member Mirczak stated the applicant must still obtain permits from Hudson River Black River Regulating District and the Department of Environmental Conservation; and, depending upon the amount of fill, the Army Corps of Engineers.

Chairman Cox stated in a conversation with an administrator of Hudson River Black River Regulating District recently, he advises the permit holder that they will need a DEC permit and possibly an Army Corps permit. He does not notify the applicant of the necessity of obtaining a Town permit because of the difference in each Town's regulations.

Old Business: None.

Correspondence: None.

Secretary's Report: None.

Public Participation: None.

Motion by Eileen Brennan, seconded by Board Member Traeger to adjourn the meeting at 7:35 p.m. Ayes: Cox, Mirczak, Vaillancourt, Brennan, Traeger. Carried: 5-0.

Respectfully submitted,

Diane R. Byrne
Secretary