

**TOWN OF DAY ZONING BOARD OF APPEALS
MINUTES – REGULAR MEETING
MARCH 17, 2014**

Members Present:

Donald Poe
Judy Traeger
Lorraine Newton
June Dixon

Also Present:

Town Attorney, David Avigdor

Members Absent:

Dave Davidson, Chairman

PUBLIC HEARING:

**Alan Clark, John Weiss, Rickamae Birnbaum
Tax Map #33.18-1-1, PB14-01, ZBA14-01
Area Variance for Subdivision**

With proof of notice available that the legal notice for the Public Hearing for Alan Clark, John Weiss, and Rickamae Birnbaum was published according to law the Public Hearing commenced as follows:

Judy Traeger filled in for Chairman in Dave Davidson's absence. She opened our Public Hearing meeting with asking if anyone in attendance had any questions or wanted to say anything in reference for or against the above application. Dawn and Wayne Lake were in attendance from Overlook Beach Club. Dawn Lake who is President of the Overlook Beach Club introduced them and stated that she was there as the representative for the Overlook Beach Club. She stated that they weren't opposed to this but wanted to get more information about it. Mr. Clark offered the survey map for her to view.

Judy asked if anyone had input for this and Mr. Clark introduced himself and explained who he and Mr. Weiss and Rickamae Birnbaum were, however Mr. Weiss and Rickamae Birnbaum were not in attendance. Also in attendance was Mr. David Barrass, Surveyor and Ms. Katharine Allentock.

Mr. Clark stood and explained why they were seeking a variance to be able to do a subdivision for the two lots and they are short 3% of the land necessary to be able to have the subdivision granted. He went on to explain that the property was bought before the current zoning laws and the house on the property was built in 1969. This property is much larger than most of the other properties on Kathan Road and is shielded by woods. This should not be a detriment to the neighborhood nor change it drastically. He did check with his neighbor, Selma Rayfiel, about selling her property, however she does not want to sell at this time. There is no other way to obtain more property. The amount of land lacking is so small that he feels it shouldn't pose a problem.

Judy Traeger read over the summary typed by Brenda, Clerk of the Board, which was as follows:

Monday, March 3, 2014 (evening) Betty Brown, currently in Florida (515) 240-3991 had left message wanting to know more about the above named. I called her back that evening, got her voice mail and explained that I could send her copies for a fee. As of 3-5-14 no return call.

Monday, March 3, 2014 (evening) Carmel DeRozzio who lives in Overlook 372-6706. She also wanted more information regarding the above named. I explained to her that she was welcome to come in to view the application and the survey map. She said she is elderly, 88 but may get her neighbor to bring her in.

Wednesday, March 5, 2014

Mr. Jan Barton, Schenectady, 368-7291 phoned at 1:30 p.m. wanted to know how close this property was to his. I made him aware that he could come in to view the application. He came in to review the application and also the survey map. He was going to go to his property to see how this would affect him.

Wednesday, March 5, 2014, called at 3:30 p.m.

Mr. James Hirsch, Tudor Investment Group, 1275 King Street, Greenwich, CT 06831 requested that we mail a copy of the survey map. Mailed on 3-5-14.

Wednesday, March 12, 2014

Mr. Eric Speilbrenner, 1333 Kathan Road, 260-2292, would like to come to review application on file and/or will attend the Public Hearing on Monday, March 17th 7:00 p.m. According to Carol Vaillancourt he came to see the folder on Thursday, March 13th.

Donald Poe had a question for Mr. Clark. He wanted to know if Mr. Clark had a deeded lot to the beach or a beach permit. Mr. Clark stated he had a beach permit. How will the beach permits be divided with the subdivision? Attorney David Avigdor first wanted all to know that he not only is representing the Board but also represents Mr. Clark and wanted to make sure no one had any objections to this. He then explained that the beach property is governed by the Hudson River-Black River Regulating District.

Judy Traeger asked if there were any other questions or issues.

Donald also stated that the overall project would be a 6% difference and not 3%, however, he felt that this request was not a large request.

Lorraine Newton had a question regarding the driveway, she does see that there are two driveways. These driveways will not be a problem as far as new regulations go.

Judy Traeger declared the Public Hearing closed at 7:25 p.m.

Judy Traeger asked the Board for a decision regarding the approval. Donald Poe stated that maybe we should wait since we do not have Dave Davidson here, however after some discussion with Town Attorney David Avigdor and other board members it was decided to proceed.

Motion by June Dixon and seconded by Lorraine Newton to declare the Zoning Board lead agency for SEQR purposes.
Ayes: Judy Traeger, Donald Poe, Lorraine Newton and June Dixon.
Carried 4-0

Motion by Judy Traeger and seconded by Donald Poe for negative declaration of SEQR.
Ayes: Judy Traeger, Donald Poe, Lorraine Newton and June Dixon.
Carried 4-0

Judy Traeger asked Donald Poe to start with the checklist for the area variance criteria;

Whether the benefit can be achieved by other means feasible to applicant;

Donald Poe stated that other than the applicant buying other property there is no other means. Judy Traeger, Lorraine Newton, and June Dixon all agreed.

Undesirable change in neighborhood character or to nearby properties;

Don stated he did not think so and one of the unique things about this property is it's the most underdeveloped properties on Kathan Road and he feels there would be no undesirable change. Judy Traeger, Lorraine Newton, and June Dixon all agreed.

Whether request is substantial;

Donald Poe stated that one of the things about a variance is that our laws say that it is substantial and we decide whether we can work within those means and I think that it is within our means to work with. The percentages we talked about are very low and we can work with this. Judy Traeger, Lorraine Newton, and June Dixon all agreed.

Whether request will have adverse physical or environmental effects;

Donald Poe stated the one parcel is already there and already established and I feel the other parcel it can be developed without any physical or environmental effects. Judy Traeger, Lorraine Newton, and June Dixon all agreed.

Whether the alleged difficulty is self-created;

All board members Donald Poe, Judy Traeger, Lorraine Newton, and June Dixon agreed that it is not self-created.

Motion by Donald Poe and seconded by June Dixon to approve the area variance for Clark, Weiss, and Birnbaum.

Ayes: Judy Traeger, Donald Poe, Lorraine Newton and June Dixon.

Carried 4-0

Town Attorney David Avigdor stated that the resolution should be typed and signed before the Planning Board meeting on April 7th. Judy Traeger can sign this in Dave Davidsons' absence.

The next meeting for the Planning Board is April 7th. Upon request from the above applicants this will be put on the agenda for the Planning Board meeting.

Judy Traeger asked if anyone had any changes for the meeting minutes of February 20th and asked if someone would make a motion to approve them.

Motion first by Lorraine Newton and seconded by Donald Poe to approve the February 20th meeting minutes.

Ayes: Lorraine Newton, Judy Traeger, and Donald Poe.

Carried 3-0

June Dixon; abstained as she was not at the last meeting.

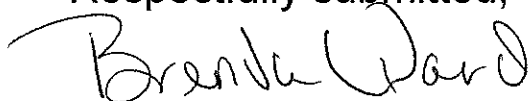
Judy Traeger stated that the Zoning Board application revisions would be discussed at the next meeting when Dave Davidson returns.

Motion first by Lorraine Newton and seconded by June Dixon to adjourn the regular meeting at 7:35 p.m.

Ayes: Judy Traeger, Donald Poe, Lorraine Newton and June Dixon.

Carried 4-0

Respectfully submitted,



Brenda Ward