

**TOWN OF DAY PLANNING BOARD  
REGULAR MEETING MINUTES - Approved  
April 1, 2019  
1 of 3**

**Members Present:**

Ted Mirczak  
Gary Newton  
Craig Trombley  
Ellen Taylor  
Mary Ann Johnson

**Members Absent:**

**Counsel:** Jeff Meyer

**Other Attendees:**

Susan Millington, Attorney representing Alberto Fortoul and Isabel Charbonneau)  
Ronald Hertzell  
Karen Trembley

**Pledge**

Chairman Ted Mirczak opened the meeting at 7:00PM

**Motion** made by Mary Ann Johnson to accept the meeting minutes from the March 4, 2019 regular meeting of the Planning Board, seconded by Ellen Taylor.

**Ayes:** Gary Newton, Craig Trombley and Mary Ann Johnson and Ellen Taylor.

**Old Business:** Mr. Morrow was at informal meeting on March 4, 2019. We suggested he would need to have a variance before we can even consider the request. He must go back to Kenneth Metzler and get a denial so he can appear before the ZBA.

**New Business:** Informal discussion with Attorney Susan Millington who represents property owner (Alberto Fortoul and Isabel Charbonneau) that have a subdivided portion of Tax Map# 44.-1-6.1. Parcel was originally subdivided and three parcels sold in 1985 as shown on the tax map, however, the parcel in question that was sold to Fortoul/Charbonneau the deed was never

recorded with Saratoga County and is not shown on the County tax map. Attorney Millington would like to get this deed recorded.

Chairman Mirczak mentioned that if this issue goes formally before ZBA or the Planning Board that Attorney Millington would need a certification from the property owner(s) which is owned by a group The Green Dragon Retreat with seven (7) owners listed (and Alberto Fortoul and Isabel Charbonneau are also part of this group and listed as owners) that they are agreeable to have her represent them. Atty. Millington said that the members of the Green Dragon Retreat own almost all of the property, and they are agreeable to her being here.

Ronald Hertzell was the original subdivider and is trying to get this straightened out for the people (Fortoul & Charbonneau) who paid for the lot. They can't get a deed since it was never filed with the county. The tax bill is for the entire parcel 44.-1-6.1 and is paid by the Green Dragon Retreat.

Isabelle bought parcel in question via a 10-year land sale contract -- they left the original owners name on deed, and paid it off to owner so then they would get the deed. In 1982 Ron Hertzell sold the original parcel. The Fortouls were not represented by an attorney so it did not appear that their lot existed. Time went on and now the Fortouls can't get their deed. Saratoga County does not show the lot as a separate parcel. The land sale was not recorded with Saratoga County.

Attorney Millington showed the Planning Board a subdivision map, by Dennis Dickenson and Associates called The Oakridge subdivisions. When originally done, over two year period they made all kinds of changes, it was drawn up as a nine lot subdivision. The original development plan showed that a road would have been developed, but it never happened. The subdivision never went forward. This original plan predates current zoning law in the Town of Day.

Green Dragon Retreat owns almost all of the 72 acre property, map #6.1. In 1985 map# 6.2 is 4 acres, and the other lot 6.3 is 5.9 acres were sold but only the first three lots were recorded and none have construction on them-- these are not developed parcels. There is no town road frontage or access to any of the lots on this parcel. The road shown as a private road does not exist -- it's a proposed road. It's a dirt track on the border of the parcel. Dirt track starts where Shippey Road ends and it is a private road not a road. Town of Day zoning laws have since changed and it is required that road frontage be on a public road.

Chairman Mirczak explained to Ms. Millington that there were two deficiencies that prevented the Planning Board from taking any action on the request 1) minimum lot size requirement is 8.5 acres in a LD area; 2) there is no frontage on a public road.

Attorney Millington will need a letter of denial from Code Enforcement officer Kenneth Metzler. Once that is done she can submit an Application for a Zoning Variance to the Zoning Board of Appeals and go before the Zoning Board of Appeals.

**Continuing Business:** None

**Correspondence:** None

**Secretary's Report:** None

**Motion**, made by Ellen Taylor, seconded by Gary Newton to **adjourn** this regular meeting of the Town of Day Planning Board was made at 7:40 PM.

**Ayes:** Chairman Ted Mirczak, Craig Trombley, Gary Newton, Mary Ann Johnson, and Ellen Taylor

**Carried 5-0**

Respectfully Submitted,  
Diana Edwards  
Clerk