

## Town of LeRay Zoning Board of Appeals

December 23, 2009

The Zoning Board of Appeals of the Town of LeRay was called to order at 7:03 pm by acting Chairman Jackie Tunstall.

Those in attendance were: Board members: Acting Chairman Jackie Tunstall, Ron Cooper, and Peter Clough- new ZBA Board Member. Board members Bill Jesmore and Bonnie Stewart were absent. Others in attendance were: Attorney Gene Langone (representing the Town), Guy Javarone, Attorney Michael Mackey (representing Mr. Javerone), Walter Van Tassel, Sam Biondolillo, and Jerry Hobbs.

Mrs. Tunstall introduced Mr. Clough and the other Board members to those in attendance.

Roll call was taken. Board members Bill Jesmore and Bonnie Stewart were absent.

Action on any prior minutes was not taken.

### **Old Business:**

This meeting was called as a result of Mr. Van Tassel filing an Interpretation Application (Dated December 2, 2009) with the Town, concerning action taken by the Planning Board on November 19, 2009. This action granted a Lot Line adjustment to W and J Development for Tax Parcel # 65.17-1-21.2.

Mr. Van Tassel's specific question / comment were "that he felt the lot line adjustment is illegal, because Tax Parcel # 65.17-1-21.3 only has 51.26' of road frontage on Holbrook Road."

Attorney Langone reminded those in attendance that this was not a Public Hearing.

Mr. Van Tassel did ask what type of meeting was being conducted. Mr. Langone stated that the meeting had two initial purposes. The Zoning Board had to meet upon the application as filed and determine its course of action. It would determine if the application was complete and properly filed and, if it was accepting the matter for review, how it would proceed in terms of hearing the matter.

Mr. Van Tassel had the Board members review the map that was approved by the Planning Board on 11/19/2009. He stated that according to the Article B of Section 135-2 of the Town Subdivision Law calls for the transfer of land be from one property owner to another. He then gave information on street definitions. He also stated that, the proposed Town Road is at this point not an existing Road.

Attorney Mackey had forwarded a letter regarding this application dated December 18, 2009 concerning procedures that was sent to counsel for the Board. It was contended that according to the Town Zoning Law 158-65 the ZBA does not have the power to review the actions of the Planning Board. Attorney Mackey stated, If Mr. Van Tassel has an objection he could file an Article 78. According to the Mackey submission, the ZBA only has the powers and duties prescribed by 267-b of the Town Law.

Attorney Langone advised the Board that he researched and could not find any cases that the Zoning Board reviewed actions taken by the Planning Board.

Mr. Clough asked who the administrative official would be as described in the law. Mr. Langone stated that it would be the Zoning Enforcement Officer.

Mr. Mackey reiterated that the only actions the ZBA could review would be those made by The Zoning Enforcement Officer.

Mr. Clough stated he felt that ZBA did not have the authority to take action on the Planning Board decision. Mr. Cooper and Mrs. Tunstall each agreed.

A motion was made by Mr. Clough to reject Mr. Van Tassel's application on the basis that it did not have jurisdictional standing to review this matter. This was seconded by Mr. Cooper. The motion passed with a vote of 3-0.

A motion to adjourn was made by Mr. Clough and seconded by Mr. Cooper. This motion passed with a vote of 3-0.

Jacalyn Tunstall  
Acting Chairman  
Zoning Board of Appeals