

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of November 25th, 2008 - DRAFT

Members Present: Priscilla Remington, Curt Castner, Gary Frenz, Dan Smith,, Marion Luce, Alternates Cheryl Erickson and James Steen

Others Present: Counsel to Boards Mark Schachner, Zoning Administrator Gary McMeekin, Town Board member Bob Olson

Guests Present: Tom Johanson, Steven Smith, Rodney Powis, Ed McConville, Matt Fuller, Gerald Granger, John Caffry, Lean Kelly, Bill Olin, Christine Webster, Peter Polimino, Anthony Polimino, Don Butler, Keith Wilkinson, Larry Southworth, Pat and Mickey Butler, Yvonne Butler, Bill McGhie, Donna and Mike Friedrich and others.

PUBLIC HEARINGS:

File # 2008-14AV Tax Map 55.17-1-21 Altieri and Probst seeking a 52' shoreline variance, a 46' roadway setback variance and a 5' side yard setback variance to build a small cottage on existing footprint of 2 car garage. Parcel is located on Palisades Road. Priscilla Remington stated that the applicant requests application be tabled til Dec 30th meeting and asked if anyone in the audience had any comments or questions. Being no comments or questions, Dan Smith made a motion to table the public hearing, 2nd by Gary Frenz. All Ayes.

File # 2008-33AV Tax Map 19.4-2-4 Roger, Linda, Brian and Jennifer Pfeiffer seeking a 50' shoreline setback variance and a 43' roadway setback variance to build a 12' x 8' (96 sq. ft) deck on parcel located at 612 East Shore Dr. Priscilla Remington stated that the Warren County Planning Board recommended No County Impact. Being no comments or questions, Gary Frenz made a motion to close the public hearing, 2nd by Curt Castner. All Ayes.

File # 2008-34 AV Tax Map 72.13-2-52 and 72.13-2-53 Larry and Judy Long seeking shoreline setback variances from streams on both sides of parcels located on State Rte 8 in the R1-1.3 acre zone. Clark Wilkinson, Engineer representing the applicant stated the this project encompasses to tax map parcels of .514 acres in the R1-1.3 acre zone. Lengthy discussion ensued regarding the size and height of the structure the stream classifications and the storm water runoff design and septic design. Tricia Shimer stated that parcel is located in a flood plan area and expressed her concerns of the runoff stating that the increased grade will overflow to her parcel asking who would be responsible for the repairs. Gary Frenz stated that if the applicant raises the grade of the parcel the streams will be effected by the runoff. Clark Wilkinson stated that the fill will taper down 15' from the building creating an area that will trap the runoff before discharging it in to the streams/lake. Dan Smith reiterated the variance requests: 24'4" variance from the North Stream, 2'8" variance from the South Stream and 3'2" variance from the road. Lengthy discussion ensued regarding the variances necessary and the possible need for a roadway setback variance. Gary Frenz made a motion to table the public hearing until the December meeting re-advertising with the correct variance requests, 2nd by Marion Luce. All Ayes.

Curt Castner recused himself from the from the Brant Lake Heights HOA application as he was the Zoning Administrator in the late 1980's and early 1990's. Curt Castner then got up and sat in the audience.

File # 2008-35A Tax Map 72.13-2-48 Brant Lake Heights HOA seeking an appeal from the Zoning Administrators Order to Remedy Violation to remove ten existing dock slips, issued July 31, 2008. Matt Fuller,

representing the HOA explained the project and the history of the parcel and the fact that a new property owner purchasing in this subdivision could not have known about a situation regarding their dock rights. Ed McConville representing “Butler Loop” owners explained their rights for an easement across the Brant Lake Height HOA parcel. John Caffry, representing the Webster’s stated that he supports the Zoning Administrator’s decision of the removal of the ten (10) docks explaining that Orders to remedy violations issued in 1990 and 1991 were never enforced. Matt Fuller stated that Zoning Administrator misinterpreted the Ordinance. Priscilla Remington stated that the variance was null and void and the ordinance also requires a Conditional Use permit be granted, which was not. Discussion ensued regarding the 1988 ZBA denial limiting the number of dock spaces, the offering plan approved by the Attorney General’s office, other docking options. John Caffry stated that the 1990 variance was annulled and appealed but the owners never removed the docks and no action was taken by the town to remedy the violations reiterating that 1 dock 18 slips holds today. Bob Olson declared that he is a Town Board member but is here as private citizen, stating that the docks were placed under a variance that was overturned by Judge Dier and the appeal was denied but tried to seek legislative relief from the Town Board and Planning Board by excluding Brant Lake Heights HOA and Adirondack Acres in the revised ordinance continuing his position that the appurtenant uses are to include docks. Lengthy discussion ensued regarding the language and adoption of the ordinance not exempting either Brant Lake Heights HOA or Adirondack Acres subdivisions. Mark Schachner stated that he would like to narrow the issues and asked if Bob Olson agrees that the 1972 original subdivision approval of Brant Lake Heights did not include a dock design. Bob Olson stated that he agrees with that statement. Marion Luce wanted to clarify that the 1972 Planning Board approved the subdivision and that there were no docks as part of that approval. Discussion ensued regarding the dates of the subdivisions. Gary McMeekin stated that he has researched the information regarding 1972 subdivision, indicating that Saluzzo was not interested in docks at that time and he would take up the dock issue with the town at a later date. John Caffry stated the past history of the dockage which limited the parcel to 18 dock slips determined by the Zoning Administrator at the time along with the denial of the variance request in 1988 along with the annulled variance in 1990 and the fact that a Conditional Use approval was also necessary but never done, concluding that the twenty-eight (28) dock slips that exist are illegal. Members of the audience spoke regarding the sale of deeded dock slips that do not exist. Bill Olin stated that he purchased a parcel in 2000 was deeded a docking slip with that sale. Peter Palomino stated that agreed with Bill Olin and is worried that his house value will decrease if he can not get his deeded dock. Robert Boutelle stated he concurred with Bill Olin and Peter Palomino and stated that he was the dock master two years ago and he was in charge of organizing the slips usage that has gone smoothly, the area is located in an inlet that does not protrude into the water, has existed for 15-20 years and no one did anything to remove them. Christine Webster stated that her father co-existed with the Butlers docks since 1970-1971 but the amount of boat traffic has increased and the docks became out of control, stating her concerns regarding the swimming area and the quality of life. Lengthy discussion ensued regarding the 2006 letter to the HOA from Gary McMeekin, the Zoning Administrators opinion of Section 10 (b) the minutes of the combination meeting between the Town Board and the Planning Board regarding the dock ordinance, Matt Fuller then requested a copy of the minutes. Cheryl Erickson questioned as to what year the docks were placed in the deeds, continuing that even if the new owners were unaware that there was an ongoing issue with the docks, that Olson Development Inc certainly had to know, and requesting the dates of those sales involving deeded docking. Matt Fuller stated that the 1990 lawsuit did not resolve who has superior rights and that would not be for this board to decide. Priscilla Remington asked Gary McMeekin as to the number of docks that would be allowed today under the ordinance. Gary McMeekin stated a maximum of four (4) boats would be allowed under our zoning code today. Dan Smith stated that the Zoning Administrators Order to Remedy Violation is similar to the 1990 and 1991 Orders to Remedy Violations issued by Curt Castner. Gary McMeekin stated that his interpretation is in 1987 the zoning ordinance allowed for eighteen (18) boat slips, Olson Development Inc applied for variances in 1988 which were denied, re-applied for variances in 1990 which were granted but overturned by Judge Dier, along with ongoing litigation between the Butler’s and the Olson Development Inc. In 1990 and 1991 Curt Castner issued in Orders to Remedy Violation and on August 21, 2008 he issued an Order to Remedy Violation, stating that this issue that was not created by the town. Lengthy discussion ensued regarding the zoning code of 1987 and the boards duties. Gary Frenz made

a motion to close the public hearing, 2nd by Marion Luce. The board was polled. Gary Frenz Aye Marion Luce Aye Priscilla Remington Aye Jim Steen Aye Dan Smith Nay. The motion was passed by majority vote.

Curt Castner returned to the board

The Regular meeting of the ZBA was called to order by Chair Priscilla Remington. Dan Smith made a motion to approve the minutes as corrected 2nd by Curt Castner. All Ayes.

UNFINISHED BUSINESS:

File # 2008-33AV Tax Map 19.4-2-4 Roger, Linda, Brian and Jennifer Pfeiffer seeking a 50' shoreline setback variance and a 43' roadway setback variance to build a 12' x 8' (96 sq. ft) deck on parcel located at 612 East Shore Dr. Dan Smith stated that this project is a tighter application of the law, closer to granting the minimum variance necessary and made a motion to approve the shoreline setback and the roadway setback variances as There will be no undesirable change to the character of the neighborhood or detriment to nearby properties as this fits with others in the area, the benefits sought be applicant cannot be achieved by other means, this is a substantial request but deck is modest in size, there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood, the alleged difficulty was not self created, stating that access to lake is difficult in that area, 2nd by Curt Castner. All Ayes.

Curt Castner recused himself from the from the Brant Lake Heights HOA application as he was the Zoning Administrator in the late 1980's and early 1990's. Curt Castner then got up and sat in the audience.

File # 2008-35A Tax Map 72.13-2-48 Brant Lake Heights HOA seeking an appeal from the Zoning Administrators Order to Remedy Violation to remove ten existing dock slips, issued July 31, 2008. Gary Frenz made a motion to table this application til next month, 2nd by Marion Luce. All Ayes.

Curt Castner returned to the board.

NEW BUSINESS:

File # 2008-38AV Tax map 72.10-1-15 Randy and Liz St Claire seeking area variances to rebuild rock wall, replace fence, on parcel located at 7117 State Rte 8. Randy St. Claire explained the project. After a brief discussion regarding SEQRA requirements, Dan Smith made a motion to deem the application complete, schedule a public hearing 2nd by Gary Frenz. All Ayes.

File #2008-40 AV Tax Map 89.-1-58 Gerald and Peggy Granger seeking road frontage and density variances to subdivide parcel located off Travis Lane in the LC-10 and R2-5 acres zones. Gerry Granger explained the project stating that he will grant a fifty foot (50') Right-of-way for each parcel. Gary McMeekin stated that there is no frontage for either proposed lot. Curt Castner made a motion to deem the application complete and schedule a public hearing, 2nd by Dan Smith. All Ayes.

There being no further business before the board, Chair, Priscilla Remington adjourned the meeting at 10:30 PM

Respectfully Submitted.

Christine Smith-Hayes, Secretary