

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of October 27, 2009

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

Members Absent: None

Others Present: Counsel to Boards Mike Hill, Zoning Administrator Gary McMeekin

Guests Present: Roscoe Chase, Tom Johansen, Jack and Denise Rifenburg Donald Ford, Matthew Masiello, Bill and Bonnie Donnelly, Larry Fox, Stanley Rusak, Steve Farrell, Teri Scherlein, Gene Lewis, Wes Butler, Carl & Linda Koehler, Tom Turcotte Sr. Tom Turcotte Jr, Joe Turcotte and others.

Pledge

PUBLIC HEARINGS:

File # 2009-17AV Tax Map 55.-1-10.2 Metzger, Ellen and John seeking a forty four foot two inch (44' 2") side yard setback variance, a two hundred six (206) square feet dock surface area variance and a fifty foot (50') dock length variance to build a dock on parcel located at 62 Counter Point Lane. Correspondence received requesting the application be tabled until the November meeting. Priscilla Remington asked if anyone had any comments or questions. Being no comments or questions, Dan Smith made a motion to continue the public hearing in November, 2nd by Cheryl Erickson. All Ayes.

File # 2009-21 AV Tax Map 55.10-1-11 Sandra and Michael Raymond seeking a thirty-five-foot (35') shoreline setback variance and a two foot (2') side-yard setback variance to build a carriage house on parcel located at 12 Sand Beach Point Rd. Correspondence received requesting the application be tabled until the November meeting. Priscilla Remington asked if anyone had any comments or questions. Being no comments or questions, Gary Frenz made a motion to continue the public hearing in November, 2nd by Cheryl Erickson. All Ayes.

File #2009-2009-23 AV Tax Map 71.20-1-6 Hager Family/Serviss seeking a fifteen foot seven inch (15'7") roadway setback variance and a thirty eight foot (38') shoreline setback variance for a eight foot (8') by ten foot (10') tree-house built on parcel located at 6793 State Rte 8. Brief discussion ensued regarding correspondence and phone calls received. Priscilla Remington asked if anyone had any comments or questions. Being no further comments or questions, Cheryl Erickson made a motion to close the public hearing, 2nd by Gary Frenz. All Ayes.

File # 2009-25 AV Tax Map 55.10-1-22 Golden Pond/Farrell seeking a fifty foot (50') shoreline setback variance to build a three thousand two hundred ninety eight square foot (3,298) two (2) story home with walk-out basement on parcel located at 686 Palisades Rd. Steven Farrell stated that a survey was done and the proposed new home is 10' from the side yard and is increasing the size of the home by 579 square feet. Gary McMeekin stated that the new home is 3,869 square feet and a side-yard variance is needed. Priscilla Remington asked if anyone had any comments or questions. Cheryl Erickson asked if the walk-out basement is included in the square footage of the home. Steven Farrell stated that the home is within the 40' maximum height requirement. Gary McMeekin stated that he would review the new plans for proper variance requests. Cheryl Erickson made a motion to continue the public hearing, re-advertising the new variance amount, confirmed by the Zoning Administrator, 2nd by Dan Smith. All Ayes.

File # 2009-26 AV Tax Map 70.-2-19 Waterhouse/Lewis seeking a one hundred fifty foot (150') shoreline setback variance to build a ten foot (10') by ten foot (10') deck on parcel located at 3336 East Schroon River Rd. Gene Lewis stated that a sketch was provided to the board showing the placement of the deck on the parcel, also showing the wet areas and the shoreline. Priscilla Remington asked if anyone had any comments or questions. Being no further comments or questions, Gary Frenz made a motion to close the public hearing, 2nd by Curt Castner. All Ayes.

Regular Meeting Called to order Cheryl Erickson made a motion to approve the September 2009 minutes, 2nd by Gary Frenz. All Ayes.

UNFINISHED BUSINESS:

File #2009-2009-23 AV Tax Map 71.20-1-6 Hager Family/Serviss seeking a fifteen foot seven inch (15'7") roadway setback variance and a thirty eight foot (38') shoreline setback variance for a eight foot (8') by ten foot (10') tree-house built on parcel located at 6793 State Rte 8. Gary Frenz stated that this is an after the fact variance request, the placement of the tree-house is a distraction to drivers. Cheryl Erickson stated that this is not in someone's back yard but by the road and is a hazard. Dan Smith stated that with the uniqueness of the property, narrowness of the land, the height above the road, river and the sharpness of the curve, this does not work well and the lot has reached it's maximum development potential. After a brief discussion ensued regarding the zoning code and the definition of a structure. Dan Smith made a motion to approve the tree-house as this has no undesirable change to the character of the neighborhood as this is a residential neighborhood and there have been no complaints, there are considerations with road and traffic distraction however, there is no feasible alternative as there is no other place for a tree-house on the property, the request is substantial on the river side but moderate on the road side, there are no adverse environmental conditions and was not self created. Gary Frenz suggested that the motion be approved on the condition that the color of the roof be changed to brown. The motion was not seconded. Cheryl Erickson made a motion to deny the variance requests as this can be achieved by other means that would not be a distraction, there is no undesirable change to the character of the neighborhood however this creates a visual distraction to drivers in the area at a known hazardous intersection, the request is substantial, the request will have a physical visual effect on the neighborhood by the elevated sight distance and distraction of the kids playing, this was self created as the property is limited by the narrowness. 2nd by Gary Frenz. The board was polled: Cheryl Erickson Yes Gary Frenz Yes Priscilla Remington Yes Dan Smith No Curt Castner No. The motion passed by majority vote.

File #2009-13AV Tax Map 72.5-1-6 Paul and Randi Nolan seeking a four hundred (400)square foot dock surface variance and a one hundred sixty foot (160') dock length variance to construct a one hundred foot (100') by four foot (4') wetlands walkway with attached one hundred foot (100') by four foot (4') floating dock on parcel located at 339 Palisades Rd. The Board noted that the correspondence dated September 22nd from the applicant's representative requested that the matter be tabled as the applicants are amending their application to the APA and this board. Priscilla Remington stated that no new information has been received. After a brief discussion Dan Smith made a motion to table this application until the November regular meeting, contacting the applicant's representative, 2nd by Gary Frenz. All Ayes.

File # 2009-22 AV Tax Map 72.13-1-17 John Rifenburg seeking a fifty foot (50') shoreline setback variance, a seven foot six inch (7'6") dock length variance, a ten foot (10') side-yard setback variance, a 240 square foot (240) dock surface variance, a one foot (1') dock width variance and a twelve foot (12') dock width variance to build a boathouse/dock/deck on parcel located at **32** Brant Lake Estates Loop. Priscilla Remington stated that correspondence and phone calls have been received noting that the public hearing was closed. Dan Smith stated that the board also received a letter from the applicants representative regarding the merging of the lots. Mike Hill stated that any correspondence received after the public hearing was closed can be considered by the board and would suggest that the public hearing be reopened if the board would like to consider the information requesting that the correspondence be distributed to the board for their determination as to the validity of the information. The Board reviewed the correspondence and all members stated that the information would not have a significant change to the application, the correspondence was returned to the secretary to be placed in the file but not to be part of the decision making process and the board elected to not reopen the public hearing. Discussion ensued regarding the merger of the lots and the amount of variances being sought. Gary McMeekin stated that if the lots were merged then the minimum required side-yard setback for the boathouse complex would be forty-seven feet. Cheryl Erickson stated that the shoreline setback variance would remain at fifty feet for the deck, the side-yard setback variance would be eliminated if the lots are merged, and asked Gary McMeekin regarding the dock surface area variance reduction. Lengthy discussion ensued regarding the size of the complex and the requirements for the maximum length of structures into the water and the need for variances for the deck and the dock which extends outside of the boathouse structure, the fact that the APA's code and the Town of Horicon code do not coincide regarding roof top decks. Jim Steen asked Gary McMeekin if the docks on the outside of the boathouse and deck were not attached if the applicant would be before this board. Gary McMeekin stated that a boathouse is allowed by right. Discussion ensued regarding the length of a structure into the water.

Cheryl Erickson stated that the plan shows the complex extends fifty-two feet into the water and a seven-foot six inch variance would not be an accurate variance request.

Discussion ensued regarding the length of the boat to be used. The applicant stated that the boat in question is twenty-eight feet long.

Mike Hill suggested that the board re-advertise the newly discovered twelve foot dock length variance reading **Section UNFINISHED BUSINESS:** (con't)

11.60 (4) of the Zoning and Project review **Docks:** In general, no dock, docking facility or obstacle to navigation shall extend more than 40 feet into any body of water, measured from the MEAN LOW WATER MARK.

Cheryl Erickson stated that the benefit to the applicant can be achieved by other means with a lesser request.

Dan Smith asked if there would be more dredging with a shorter structure.

Cheryl Erickson stated that fifty-two feet out is a long way and asked if the applicant has provided the water depth.

Discussion ensued amongst the members which is illegible.

Cheryl Erickson stated that the applicant could eliminate the need for length variances and a boathouse by definition is a feasible alternative.

Jim Steen stated that a boathouse shortened by twelve feet could still have two feet in front for a walkway and asked what the square footage would be with the length reduction suggesting that the applicant reduce the complex to a total length of forty feet stating that it's this board's job to grant the minimum variance feasible.

Dan Smith asked if a structure exceeds forty feet as an obstacle to navigation does the planning board now get involved.

Discussion ensued regarding the mean low water and mean high water mark.

Cheryl Erickson stated that there are other criteria to review as to the character of the neighborhood and detriment to nearby properties and feels that the dimensions of the footprint of the entire complex are out of character with the neighborhood as she taped out the structures size in the town hall parking lot and is larger than the garage by three feet and the surface area can be reduced to fit within the zoning laws.

Discussion ensued regarding the tabling of this matter till next month.

Priscilla Remington asked the applicant if he would be agreeable to table this matter until the November 24, 2009 meeting.

John Rifenburg requested that the board hold a special meeting to deal with this application.

The board agreed to hold a Special Meeting November 10, 2009 at 7:00PM requesting that Gary McMeekin and the Architect (Sal Renda) review the plans to determine the correct variance requests and agree to re-publish the legal notice and re-notice the adjoining owners if the variance requests have been increased.

Gary McMeekin stated that he would review the variance requests with Sal Renda and confirm the exact dimensions of the boathouse complex and the exact variances needed.

Mike Hill asked the applicant if he was agreeable to the setting of meeting for November 10th at 7:00PM and the review of the variance requests.

John Rifenburg stated that he is in agreement and thanked the board for setting the special meeting.

Priscilla Remington made a motion to table this matter, setting a special meeting for November 10th, 2009 at 7PM advertising and re-noticing the public hearing if necessary requesting Gary McMeekin confirm the dimensions of the boathouse/dock/deck, 2nd by Gary Frenz. All Ayes.

NEW BUSINESS:

File # 2009-27 AV Stanley Rusak seeking a 11' roadway setback variance and a 35' shoreline setback variance to build a 10' x 14' storage shed on parcel located at 7809 State Rte 8 Brant Lake. Stanley Rusak stated that there is a garage attached to the house but would like this shed to store items like gas cans for safety reasons, the shed would not be visible from the lake but would be visible from the road, there would be no tree removal and would have wood siding matching the house. Dan Smith stated that there is a driveway existing that would be near this shed. Being no further comments Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2nd by Gary Frenz. All Ayes.

File # 2009-28 AV Linda Koehler seeking a 20' shoreline setback variance to build a 12' 6" x 18' three season room on parcel located at 21A Jay Court. Carl Koehler stated that he would like a three season room and this area would be the only blank area to build on but needs a shoreline setback from Mill Creek. Being no comments or questions, Dan Smith made a motion to deem the application complete and schedule a public hearing, 2nd by Cheryl Erickson. All Ayes.

File # 2009-29 AV William McCarthy seeking a 18' 7" roadway setback variance, a 3' side-yard setback variance and a 1' side-yard setback variance to build a deck on parcel located at 237 Palisades Road Brant Lake. Being no comments or questions, Gary Frenz made a motion to deem the application complete and schedule a public hearing, 2nd by Cheryl Erickson. All Ayes.

There being no further business before the board, Chair Priscilla Remington adjourned the meeting at 11:00 PM

Respectfully Submitted.
Christine Smith-Hayes, Secretary