

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of September 22, 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, Town Board Member Bob Olson, Mike Raymond Planning Board Member

Guests Present: Erin Hayes, Roscoe Chase, Tom Johansen, Mike and Kathy Hill, Meridith VanVorst, Jack and Denise Rifenburg Joanne Esposito, Gerry Kney, James Fitzpatrick, Raph Vatalaro, Donald Ford, Matthew Fuller, Lois and Mattiew Masiello, Ben Farrell, Myron and Pat Butler, Bill Lamey, Bill and Bonnie Donnelly, Anthony Lashway, Larry Fox 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 foot dock surface area variance and a fifty foot (50') dock length variance to build a dock on parcel located at 62 Counter Point Lane. Matt Fuller, representing the applicant stated that he has had discussions with the APA and the walkway is sitting in the best place possible cutting down the width of the dock/walkway to three (3) feet letting more light penetrate, negating the environmental issue. Cheryl Erickson stated that the APA valued the wetlands as Value 1. Matt Fuller stated that he does not have an agency permit at this point. Brief discussion ensued regarding the applicant's response to the letter received from the APA. Priscilla Remington asked if anyone had any comments or questions. Being no further comments or questions, Dan Smith made a motion to table this application in order for the attorney to review and respond to the APA letter, 2nd by Gary Frenz. All Ayes.

File# 2009-19AV Tax Map 36.3-3-14 Robert Vanvorst seeking a ten foot (10') roadway setback variance to construct a three foot (3') by ten foot (10') ramp onto a conforming deck on parcel located at 210 East Shore Drive. Mike Hill, Contractor representing the applicant stated that the deck is in compliance but the ramp does not meet the minimum requirements but is in the safest place for the applicant's access. Priscilla Remington asked if anyone had any comments or questions and stated that the Warren County Planning Board's recommendation, No County Impact. Being no further comments or questions, Cheryl Erickson made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

File # 2009-20AV Tax Map 19.4-2-17 Patrick McCullough seeking a four foot (4') roadway setback variance to build a deck on front of new home located at 562 East Shore Dr. Patrick McCullough stated that he is building a new home on the footprint of a structure that has been in existence for twenty (20) years, and the deck does not effect the views of the neighbors. Priscilla Remington asked if anyone had any comments or questions and stated that the Warren County Planning Board's recommendation, No County Impact. Being no further comments or questions, Gary Frenz made a motion to close the public hearing, 2nd by Curt Castner. 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 to build a carriage house on parcel located at 12 Sand Beach Point Rd. Mike Raymond stated that he is member of the Horicon Planning Board but is here as a private citizen, explaining that he had a survey completed and the variance request has changed due to the information received by the survey. Mike Raymond stated that the variances needed are two feet (2') from the side-yard setback and forty-three (43') from the shoreline also adding that this carriage house would not now or in the future have a kitchen. Priscilla Remington asked if anyone had any comments or questions. Myron Butler asked what is the definition of a carriage house. Gary McMeekin stated that a guest cottage and a carriage house are the same thing. Priscilla Remington stated that this is 32' x 36' two stories structure with dormers. Ben Farrell asked about the bathroom/ septic facilities. Mike Raymond stated that there would be a sink and toilet utilizing the existing septic to the house. Cheryl Erickson asked of the second floor would be the same size as the first floor. Mike

PUBLIC HEARINGS: (con't)

Raymond stated that it would be half the size. Gary Frenz made a motion to table the application and re-advertise due to the new variance requests, 2nd by Cheryl Erickson. 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 6 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**.

Sal Renda, Engineer for the applicant explained the project and variance requests.

Don Ford stated that he sent a letter to the board and has concerns regarding the use variance element for deck and a self imposed hardship which is fatal to the application, then addressing the area variance criteria as substantial, changing the character of the neighborhood, self created hardship, the environmental impact referring to a letter submitted by Mr Masiello and concern for the beach area and history of the jetty.

Matthew Masiello stated that the board also received a letter and he is concerned over the adverse visual effect, the size of the structure, the detrimental environmental impact on the beach area, plant life and fish with disrupting the flow of the water, requesting the variance be denied.

Ben Farrell asked if any studies have been done by a geologist and is a SEQRA completed with this project.

Mike Hill, Town Counsel stated that the board will complete a SEQRA form when the project requires.

Lois Masiello stated that a jetty was built in the 1980's but was removed due to the negative impact on the beach area.

Sal Renda stated that the DEC and Army Corps of Engineers have issued permits for this project.

Matthew Masiello stated that he contact DEC and their only concern is for the fishery, they did not address the draft/sand and has documented proof that a small change would effect the fluid flow.

Sal Renda stated that the applicant has gone through the proper channels and the larger timber cribs have been approved under the general permit and the applicant has downsized the structure.

Matthew Masiello stated that the project will have a major impact and act like a snow fence depositing sand and diverting the flow of water into the bay and have a disastrous effect on the beach area used by twenty-eight families.

Anthony Lashway stated that you see these types of structures all over Schroon Lake and Lake George and can't see any impact on the environment as the cribs can become a natural habitat for the fish.

Steve Farrell stated that the lake is already overdeveloped and would like to protect the lake from too many boathouses.

Don Ford asked the board to read statute 267 of the town law, and concerned with the character of the lake, the size of the structure, opposed to the project.

Cindy Mead stated that a boathouse and residence is permitted by right, will increase the value of the property and the neighbor's property.

Joan Esposito stated that the only boathouse in the development was built in the early 1900's and this project is out of proportion in the character of Brant Lake Estates and is not a desirable project, opposed to the project.

Jack Rifenburg stated that he purchased the home in 2005 and chose open crib design, working on permits for over a year, passed around pictures showing a similar boathouse on the left.

Cheryl Erickson asked the applicant the size of the existing home on the parcel.

Jack Rifenburg responded 2200 square feet.

Dan Smith asked the applicant to respond to the deed restriction.

Tom Turcotte read a letter to the board stating that this project would enhance the character of the lake, the applicant offers employment requesting the board support businesses and approve the variance requests.

Bernie Bolton stated that he has a boathouse, requesting approval of this project.

Joe Henshaw stated that he approves of this project.

Don Bulter stated that this project would make the community better.

Gary Frenz asked if the applicant would be hiring local contractors for this project.

PUBLIC HEARINGS: (con't)

Sal Renda stated that locals along with contractors from applicant's home would be hired.

Jack Rifenburg stated that he employs 275 people throughout the state.

Cheryl Erickson stated that the square footage of the boathouse is in disproportion to the existing home.

Jack Rifenburg stated that he intends to re-do the house

Cheryl Erickson asked about the covenants and deed restrictions.

Gary McMeekin stated that deed restriction/covenants are a civil matter and has no bearing on the zoning.

Dan Smith asked town counsel if this board could take deed restrictions into account.

Mike Hill, Town Counsel stated that this board has no ability to enforce deed restrictions, but must rule on the character of the area, but could explore that issue to see if has any relevance.

Cheryl Erickson asked Don Ford to address the deed issue.

Don Ford stated that all twenty-eight deeds have the same restrictions.

Discussion ensued regarding the rights to build a boathouse on property versus the addition of a dock/deck to the boathouse. Gary McMeekin stated that this board should understand that this project exceeds the definition of a boathouse. Discussion continued regarding the crib design and the board process of this application after which Gary Frenz made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

Regular Meeting Called to order Gary Frenz made a motion to approve the June 2009 minutes, 2nd by Dan Smith All Ayes. Dan Smith made a motion to approve the July 2009 minutes, 2nd by Cheryl Erickson, All Ayes. Dan Smith made a motion to approve the August 2009 minutes, 2nd by Cheryl Erickson. All Ayes.

UNFINISHED BUSINESS:

File# 2009-19AV Tax Map 36.3-3-14 Robert Vanvorst seeking a ten foot (10') roadway setback variance to construct a 3' x 10' ramp onto a conforming deck on parcel located at 210 East Shore Drive. After a brief discussion, Cheryl Erickson made a motion to approve the ten foot (10') roadway setback variance as that this is a modest variance request and needed for wheelchair access, this will not change the character of the neighborhood, there is no feasible alternative, no adverse effect on the environment, 2nd by Curt Castner. All Ayes.

File # 2009-20AV Tax Map 19.4-2-17 Patrick McCullough seeking a four foot (4') roadway setback variance to build a deck on front of new home located at 562 East Shore Dr. The board noted that SEQRA review was not required. Dan Smith stated that this is a minor change and has not effect on the neighborhood. Being no further comments or questions Gary Frenz made a motion to approve the four foot (4') roadway setback variance as this covers up a small parking area in the front of the house and there would be no change to the neighborhood and the request is not substantial, there is no environmental impact in the area, this was self created but has no bearing on the decision as there is not detriment to the general welfare of the public, 2nd by Dan Smith. 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. Jim Steen asked Gary McMeekin if the proposed boat house did not have a dock/deck attached, if the applicant would be before this board. Gary McMeekin stated that a boathouse is allowed by right and if it meets the minimum setbacks the project would not be before this board. Discussion ensued regarding the minimum variance necessary and if decks are needed. Cheryl Erickson stated that the difference is the amount of variances applied for on a small piece of land in front of a small house and size is an issue. Lengthy discussion ensued regarding the merging of the two lots, moving the boathouse to decrease the amount of variances, the percentage of the variance requests, the length and draft of the boat after which Priscilla Remington made a motion to table the discussion of this matter until the October meeting, 2nd by Dan Smith. All Ayes.

Cheryl Erickson left the meeting, Jim Steen sat in as a voting board member.

UNFINISHED BUSINESS: (con't)

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. Letter received from the applicant's representative requesting this application be tabled agreeing to add a thirty (30) day extension to the decision. Gary Frenz made a motion to table this application pending receipt of information amending the application, 2nd by Dan Smith. All Ayes

NEW 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. After a brief discussion, Priscilla Remington made a motion to deem the application complete and schedule a 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. Gary McMeekin stated that the existing home is a non-conforming structure and the new home would be more conforming. Priscilla Remington stated that the height of the home is approximately thirty-nine feet (39') on less than half an acre of land. Dan Smith stated that he would like to see a plot plan showing the new home and dimensions. Discussion ensued regarding the square footage of the existing home. Steven Farrell stated that the plans would be ready for next months meeting. Gary Frenz made a motion to deem the application complete and schedule a public hearing pending receipt of the plans, 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. Gary McMeekin stated that this project may need a Conditional Use approval as it is in the RRD zone. Dan Smith stated that the board needs a plot plan showing where the deck will be placed on the property, then made a motion to deem the application complete and schedule a public hearing pending receipt of the plot plan, 2nd by Gary Frenz. All Ayes

There being no further business before the board, Chair Priscilla Remington adjourned the meeting at 10:20PM

Respectfully Submitted.
Christine Smith-Hayes, Secretary