

# Town of Horicon

## ZONING BOARD OF APPEALS

### Minutes of September 28, 2010

**Members Present:** Gary Frenz, Dan Smith, Cheryl Erickson, Jim Steen, Curt Castner, Alternate Thad Smith

**Members Absent:** Alternate Priscilla Remington

**Others Present:** Counsel to Boards Mike Hill, Zoning Administrator Gary McMeekin, Planning Board Members Mike Raymond and Matt Simpson,

**Guests Present:** Bill McGhie, Tommy Johansen, Brian Carroll, Fred and Jamie Peters, Steve Farrell, John MacMillen, Cookie (Karen) McCauley, Kathy and Mike Hill, Gail Frenz..

#### Pledge

Regular Meeting called to order by Chairman, Gary Frenz and stated that the minutes of the August meeting can not be voted on as a full quorum of the board that was present are not present to vote tonight.

#### NEW BUSINESS:

**File # 2010-32 AV Tax Map 55.17-1-23 Byrne, Gerald** seeking a fifty-three foot shoreline setback variance to expand home with a new entry, screen porch and dining room on parcel located at 500 Palisades Road, the applicant is being represented by John MacMillen. John MacMillen stated that this is a pre-existing non-conforming lot and the application shows the current and proposed footprint of the home. After a brief discussion, Gary Frenz requested the applicant submit a scaled plot plan. Dan Smith made a motion to deem the application complete and schedule a public hearing for October 26<sup>th</sup>, pending receipt of the scaled plot plan, 2<sup>nd</sup> by Curt Castner. All Ayes.

#### PUBLIC HEARING:

**File # 20190-28 UV Tax Map 39.13-1-7.1 Leon Cochran** seeking a Use Variance to maintain the bathroom/kitchen facility in boathouse located at 6 Horicon Birches Road Extension. Gary Frenz stated that the applicant has requested this matter be tabled until the October meeting. Dan Smith made a motion to table this matter, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

#### PUBLIC HEARING:

**File #2010-29 AV Tax Map 53.-3-34 Donald Alger, Owner (Brian Carroll - Contract Vendee)** seeking a 44' rear yard setback variance to replace a mobile home on parcel located at 4062 East Schroon River Road. Existing mobile home to be removed. Brian Carroll submitted a scaled drawing as requested by the board stating that the septic would be the Elgin system (NORWECCO). Gary McMeekin stated that the septic system will be determined at a later date. Dan Smith stated that the parcel to the rear of this parcel is a large wooded parcel. Gary Frenz asked if there were any comments or questions. Being no further comments or questions, Dan Smith made a motion to close the public hearing, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

#### UNFINISHED BUSINESS:

**File #2010-29 AV Tax Map 53.-3-34 Donald Alger, Owner (Brian Carroll - Contract Vendee)** seeking a 44' rear yard setback variance to replace a mobile home on parcel located at 4062 East Schroon River Road. Existing mobile home to be removed. Dan Smith stated that the proposal is to place a new mobile home as far to the rear of the property, avoiding any negative noise and visual impacts from the road and there are not any homes in the rear of the parcel. Gary Frenz asked if the applicant had researched the possibility of purchasing some of the property in the rear for a feasible alternative. Brian Carroll stated that he does not have that kind of information. Jim Steen stated that this could not be

done without rear setback variances as the property is only 100' wide. Discussion regarding the character of the neighborhood criteria ensued. The board agreed that this would be a desirable change and there are homes of equal size on both sides and room for egress to the backyard. The board agreed that this is a substantial request but not extreme since it is offset by the front-yard setbacks. The board agreed that this will not have any adverse physical or environmental effects as it will improve the property visually and with a new septic and well. The board agreed that this is not self created as the existing mobile home was destroyed by a tree. The board discussed options to decrease the variance request by eliminating the rear deck, increasing the rear-yard setback by four feet (4'). The board and the applicant agreed that a patio, flush with ground level would be an acceptable alternative to the 8' deck on the rear of the property. Discussion regarding the stairs and landing ensued where the board and applicant agreed that a 4' x 4' landing with steps parallel with the mobile home would reduce the variance request to 40'. Dan Smith made a motion to approve the 40' rear-yard setback variance removing the 8' deck in the rear and replacing it with a 4' x 4' landing and stairs, based upon the discussion, 2<sup>nd</sup> by Curt Castner. All Ayes.

## **PUBLIC HEARING**

**File #2010-27 AV Tax Map 20.10-1-56 Peters Properties, LLC, Fred Peters** seeking a 15' roadway setback variance and a 12" rear-yard setback variance to build a new 36' x 36' home with 2 decks on parcel located at 879 East Shore Drive. Existing home to be demolished. Fred Peters explained that the new home would be 2-stories with a full foundation. Discussion regarding decks ensued. Fred Peters stated that the side deck would be a grade level, the rear deck would have 3 steps and the new deck would be at the 1<sup>st</sup> floor elevation above the walk-out basement. Mike Hill, Contractor/Neighbor stated that the new home would be 34' in height. Gary Frenz asked if anyone had any comments or questions. Karen McCauley asked where the septic would be placed. Fred Peters stated that a NORWECCO system is being investigated as there is not enough room for a conventional system. Mike Hill, Contractor/Neighbor stated that he is in favor of the project as this will not be any taller than other structures in the area. Jim Steen asked if the basement will be finished. Fred Peters stated that the basement would be for storage only. Being no further comments or questions, Cheryl Erickson made a motion to close the public hearing, 2<sup>nd</sup> by Dan Smith. All Ayes.

## **UNFINISHED BUSINESS:**

**File #2010-27 AV Tax Map 20.10-1-56 Peters Properties, LLC, Fred Peters** seeking a 15' roadway setback variance and a 12" rear-yard setback variance to build a new 36' x 36' home with 2 decks on parcel located at 879 East Shore Drive. Existing home to be demolished. The board reviewed the criteria: 1) Whether the benefit can be achieved by other means feasible to the applicant: The board agreed that there would be no way to reduce the variance requests as the property is narrow and is pre-existing. 2) Would there be an undesirable change in the neighborhood character or the nearby properties: The board agreed that there would be no impact on the neighborhood and would be an improvement of a year round home versus a seasonal residence, the new home will not obstruct the view from any neighbors and there would not be an undesirable change. 3) Whether the request is substantial: The board agreed that the request seems substantial but the applicant is basically building on the same footprint, there is no more encroachment on the neighbors, the total square footage of the home is modest and in keeping with the neighborhood. 4) Whether the request will have any adverse physical or environmental effects: The board agreed that the NORWECCO system is appropriate for this lot, the roof line is the same and there would be no additional runoff and this home sits against a hill and will not stand out. 5) Whether the alleged difficulty is self-created: The board agreed that this was not self created as the applicant is staying within the footprint with a minor addition to the square footage and the applicant could not build anywhere else on the property. The board also agreed that this is the minimum variance necessary as this is not a overly large house, there are decks existing to the rear of the parcel. Cheryl Erickson made a motion to approve the 15' roadway setback variance and the 12' rear yard setback variance based on the discussion. Discussion ensued to clarify that the 12' rear-yard setback is for the decks as shown on the plan and this is not encroaching any further than what exists currently. The motion was 2<sup>nd</sup> by Dan Smith. All Ayes.

## **PUBLIC HEARING**

**File # 2010-10 AV Tax Map 55.10-1-22 Golden Pond LLC/Farrell** seeking a 45' shoreline setback variance to build a new home on parcel located at 686 Palisades Road. Length discussion ensued regarding the newest plan and septic designs submitted.

Steve Farrell stated that 60 square feet of deck was removed from the front and this would be a rear-ward expansion only, the application is to build on the existing footprint, no closer to the lake and adding square footage to the rear.

Mike Raymond stated that he is a Planning Board member and the adjacent neighbor to the project and had concerns for the septic and rain water run-off, the newest proposal seems to be closer to the lake by 20', the front of the building will change the character of the neighborhood and have a negative visual impact.

Elna Meader stated that she is a neighbor and is in favor of this proposal.

Gary Frenz asked if the runoff was taken into consideration.

Gary McMeekin stated that the absorption beds will absorb all storm-water runoff around the bed system.

Mike Raymond asked if the septic was 15' off the property line.

Gary McMeekin stated that there is 20' to the first perforated pipe.

Mike Hill Counsel, stated that there was previous discussion on the placement of the home and that proposal was further up slope on the property.

Gary McMeekin stated that the Engineer had concerns of the interference with the septic and has addressed this 3 or 4 times and a NORWECCO system would be the last resort, the system proposed is an engineered system 95' from the well.

Mike Raymond stated that he cannot understand why this home could not be moved further back on the property.

Thad Smith asked if the height of the home has changed from 39'6"

Lengthy discussion ensued regarding the placement of the home, the square footage of the home, the placement of the septic system, runoff, the ability to reduce the width of the deck and stairs on the lakeside of the home to reduce the variance requests, the need for actual building plans, and side-yard setbacks. The applicant as asked if the deck 12' wide and the screen porch 12' wide on the lakeside of the home could be reduced in size to increase the footage between the house and the lake reducing the variance requests.

Steve Farrell stated that the screen porch 12' x 24' as indicated on the plans is now going to be living space, not a screen porch.

Cheryl Erickson stated that the house is enormous for this size lot, this is a big house on a small lot and the applicant is creating confusion, this proposal does not work as this home is 200% larger than the existing home and cannot imagine a house this size on this lot.

Mike Hill, Counsel, stated that the legal standard is minimum variance necessary.

Lengthy discussion ensued regarding decks, porches, livable space, stairways.

Steve Farrell stated that he does not want to reduce the size of the decks.

Gary McMeekin stated that he would recommend that the house be placed as far back as possible on the lot, reduce the width of the front deck as much a possible and reduce the square footage of the home.

Cheryl Erickson stated that the house plans and the survey (septic) plan needs to match.

Gary Frenz asked Steve Farrell if he was clear as to what the board is requesting, reiterating that the board must approve the minimum variance necessary and requesting a revised map and house plans that match what is being proposed for this property.

Cheryl Erickson made a motion to table this application requesting new house plans and plot plans as discussed, 2<sup>nd</sup> by Dan Smith. All Ayes.

## **PUBLIC HEARING**

**File #2010-23 AV Tax Map 70.-2-16 Hayes, Charles** seeking a 3.650 density variance and a 200' road frontage variance for Lot 2B and a 2.738 density variance and a 200' road frontage variance for Lot 2A for a 2 lot subdivision located at 63 Valentine Pond Road in the RRD-10 acre zone. Lengthy discussion ensued regarding the Sand and Gravel pit operation, the possibility of a shared driveway, placement of the home, vegetation and time frames. The board stated that this will be an overall improvement to the property as the mining would cease, creating minimal impact on the road and curve and trees would be used for screening. Cheryl Erickson stated that there does not seem to be any other alternatives and this is the best option. The board agreed that this is a substantial request of 37% and 73% but proportionably acceptable. Dan Smith stated that this is a unique parcel as it is now has a Sand and Gravel pit and this approval would return the parcel to residential and bring it into conformity with the neighborhood. SEQRA form was reviewed. Dan Smith made a motion to declare a negative declaration, 2<sup>nd</sup> by Cheryl Erickson. All Ayes. Dan Smith made a motion to close the public hearing, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

## **UNFINISHED BUSINESS:**

**File #2010-23 AV Tax Map 70.-2-16 Hayes, Charles** seeking a 3.650 density variance and a 200' road frontage variance for Lot 2B and a 2.738 density variance and a 200' road frontage variance for Lot 2A for a 2 lot subdivision located at 63 Valentine Pond Road in the RRD-10 acre zone. The board reviewed the criteria 1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties as the area is mainly residential with mobile homes and single family dwellings and this would be an improvement as the portion of the property that is now being used for Sand and Gravel extraction will cease. This is a highly desirable change to the character of the neighborhood and the benefit outweighs any negatives expressed. 2) The benefits sought by the applicant could not be achieved by any other means as there are no alternatives available that would not require variances and this is the most feasible way to subdivide, placing conditions of a shared driveway, building area, re-vegetation, cease use of the Sandy and Gravel pit with time line and placement of the new home to the rear of the parcel. There is no feasible way to subdivide with increasing variances for Lot 2B. 3) The requested variances are not substantial for Lot 2A as this encompasses the 10 acre zone but the actual building would occur in the 5 acre zone. Lot 2B's request is substantial but the allocation of the lots is proportionally acceptable and will bring the larger lot into conformance with the character of the neighborhood, outweighing the change in the existing use. 4) There is not effect or impact on the physical or environmental conditions of the neighborhood as this will take acreage out of the sand and gravel extraction and be an improvement to the property as this are will be restored to its natural vegetation which outweighs any detriment and improves the neighborhood. This is a positive effect. 5) The alleged difficulty was self created as the applicant chose to proved a residence for his daughter and self, This is the minimum variance necessary as this maintains the larger lot in the larger zone and creates lots that fit into the neighborhood. Conditions Imposed: Any new building to be placed a minimum 300' from Valentine Pond Road in the 5 acre zone and to the rear of the existing mobile home, the existing driveway will be utilized for both lots sharing one ingress and egress for a minimum of 50' with proper easement and/or right-of-ways listed on all deeds, the Sand and Gravel pit operation will cease within two (2) years fo final approval of the variance or at the issuance of a building permit, whichever comes first. The property will be re-vegetated and screened 30' from the edge of the road with evergreen screening. All conditions to be placed on the survey map. Discussion ensued regarding APA criteria: 1) Minimum relief necessary: Yes 2) Create detriment to adjoining landowners: No, improves the neighborhood 3) Feasible method: creating 2 build-able lots - no other feasible method without variances 4) Manor in which this arose: Yes, self created 5) Adverse effect on shoreline: No shoreline 6) Reasonable Conditions on shoreline: See #5. This board acknowledges the APA criteria and the answer is consistent. Dan Smith made a motion to approve the variances as requested, 2<sup>nd</sup> by Priscilla Remington. All Ayes

## **BOARD PRIVILEGE:**

Dan Smith stated that he has stepped down as a regular member of the board effective October 21<sup>st</sup>, 2010 requesting the Town Board to assign him as to an alternate position.

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 11 PM

Respectfully Submitted.  
Christine Smith-Hayes, Secretary