

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of July 28, 2009

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

Members Absent: none

Others Present: Counsel to Boards Mike Hill, Zoning Administrator Gary McMeekin, Town Board Member Bob Olson,

Guests Present: Erin Hayes , Doug Wilk, Joan Cavanna, John Caffry, Andy and Susan Beadnell, Steve and Maureen Rossley, Paul and Mary Lou Carstensen, Bill McGhie, Roscoe Chase, Robert LaBlac, Christine Webster LaBlac, Dorathea Webster, Tom Johansen, Bill and June Lamey, Attorney Dan Smith, Jean Olson, Matt Fuller and others.

Pledge

Priscilla Remington welcomed new Alternate Member Thad Smith

UNFINISHED BUSINESS:

Curt Castner recused himself and sat in the audience. Jim Steen replaced Curt Castner as a voting member.

File #2009-10A Brant Lake Heights HOA seeking an Appeal of the Zoning Administrator's determination. Dan Smith read from the draft decision pages 1,2 and 3. Town Counsel Mike Hill reiterated the board's responsibility. Dan Smith stated that focus will be on interpretation of the law not the personalities involved, continuing to state he believes the law leans toward the applicant as per the discussions as associated with the subdivisions, any dock design parameters not talking about specific docks in place rather those meant to be associated, past, present and future, and the intent was to take the design into account. Gary Frenz stated that the original subdivision did not mention docks, and the approval would/should have stated that at that time. Dan Smith stated that there was no need to specifically stated dock requirements as there were no dock regulations per se, and taking the looser sense of boating and beach rights. Gary Frenz stated that he is concerned with side yard setbacks from neighbors. Dan Smith stated that he feels they would be exempt and the Planning Board would decide on the setbacks, dock design, depth of the water, navigation etc. Jim Steen stated that he is taking into account the minutes of the Town Board and Planning Board in 1991, 1992 and the Town Board, Planning Board and Zoning Board of Appeals meetings along with Mr. Krogman's statement of subdivisions between 1963 to 1987 that had dockage and the fact that they didn't have docks, referring to Section 7.20 of the Subdivision regulations, no docks are mentioned in the "open space" area and docks were not asked for. Lengthy discussion ensued regarding the grand-fathering of subdivisions versus grand-fathering of dockage. Jim Steen stated that the subdivision as a whole has been approved including the docks. Cheryl Erickson stated that she does not agree as there are several references from the combined meetings and the Town Board minutes including Mr Krogman statements, and referred to Sterling Goodspeed's letter regarding deeded dock right as to access in the North East Section of the beach lot. Cheryl continued to ask what number of docks that are being talked about reading exclusive docks associated with subdivisions there were existing. Dan Smith stated that it is ambiguous at best and is leaning towards the boards overall intent when the law was amended. Thad Smith asked if there were 90 lots would the future people have the same rights as the first people. Dan Smith asked if he was referring to Adirondack Acres subdivision. Thad Smith stated at the time of the subdivision, at that time period, the docks are grand-fathered. Priscilla Remington stated that when the thirty lots were sold in the BLHHOA subdivision very few people wanted docks. Dan Smith stated that the intent of the Town Board was not that every lot would get a dock. Minutes of the Town Board meetings were referred to. Cheryl Erickson asked at what point the Planning Board gets control over the dockage and could a subdivision have unlimited number of docks. Dan Smith stated that there is a similar problem with the Adirondack Acres subdivision and people bought dock rights. Cheryl Erickson stated that the Adirondack Acres Association included docks, this subdivision (BLHHOA) deeds state easements for swimming not dock rights. Dan Smith stated Brant Lake Heights docks were not specifically mentioned by the intent would apply to both subdivisions and the Planning Board would come up with a dock plan. Priscilla Remington stated that there are not enough docks for the deed dock rights at BLHHOA. Dan Smith stated that would up to the Planning Board to decide. Jim Steen referred to the stated that he feels Section 9.70109B applies to somebody. Cheryl Erickson stated that she feels Section 9.70.10B applies to those who already had dockage at the time and the Butler 10 were in place and one deeded dock right has now become two deeded dock rights. Priscilla Remington asked the number of docks the Planing Board could approve. Mike Hill stated

that Section 9.70.10B does not set a limit on docks, there are four criteria: Width of Shoreline, Dock Design, Location, lake bottom conditions. Priscilla Remington stated no setback rules?. Cheryl Erickson stated that the Planning Board does not have the ability to be more stringent as they do not have any real say going beyond the point of the 4 criteria and is not convinced that the boards intent was to circumvent the variance process. Gary Frenz stated that the Planning Board could say only 12 docks and if 30 dock rights were sold, that would have nothing to do with the Town. Brief discussion ensued regarding the temporary docks on the BLHHOA parcel. Dan Smith made a motion to reverse the Zoning Administrators determination and read the draft decision, 2nd by Jim Steen. The Board was polled. Dan Smith Aye, Jim Steen Aye, Gary Frenz Aye, Cheryl Erickson Aye, Priscilla Remington Aye. The motion was passed by majority vote.

The Board took a brief break.
Curt Castner returned to the board

PUBLIC HEARINGS:

File # 2009-03 Tax Map 55.-1-6 Roscoe and Nancy Chase seeking a 326.58' and a 231.52' roadway frontage variances to subdivide parcel located at 248 S. Ike Hayes Rd. Roscoe Chase stated that the Town board has requested a letter asking that South Ike Hayes road be reopened and is waiting for their decision. Gary Frenz made a motion to table the public hearing til August 25th. 2nd by Priscilla Remington. All Ayes.

File #2009-13AV Tax Map 72.5-1-6 Paul and Randi Nolan seeking a 400 sq. ft. dock surface variance and a 160' dock length variance to construct a 100' x 4' wetlands walkway with attached 100' x 4' floating dock on parcel located at 339 Palisades Rd. Erin Hayes, representing the applicant stated that the APA will do a site visit and inviting Dock Dr's and may make some changes to the specifications as the applicant will not be using screws as screws would tear up the earth under the walkway, the deck surface would be steel and the angle of the dock has shifted, however the variance amounts would remain the same. Gary Frenz made a motion to continue the public hearing awaiting the APA to do their site visit 2nd by Dan Smith. All Ayes.

File #2009-14 AV Tax Map 72.-1-57.8 David O'Connor seeking a 50' shoreline setback variance to build a 8' x 10' deck over rocks on shore. Parcel located at 7131 State Rte 8. Priscilla Remington asked if anyone had any comments or questions. Being no comments or questions, Gary Frenz made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

File #2009-16 AV Tax Map 122.16-1-2 Morris, William and Judy seeking a 100' shoreline setback after the fact variance to replace an existing boathouse roof with a flat roof/porch. Parcel located on 48 Bridle Lane. Attorney Dan Smith, representing the applicant stated that his client would like to convert the screen room back into a boat house with a deck on the roof reminding the board that they have granted two boathouses with roof decks. Andy Beadnell stated there are 4 boathouses on Sherman Lake for over 40 years. Being no further comments or questions, Cheryl Erickson made a motion to close the public hearing, 2nd by Dan Smith, All Ayes

Regular Meeting Called to order, Priscilla Remington made a motion to accept the minutes of May 2009 as printed, 2nd by Gary Frenz. All Ayes.

UNFINISHED BUSINESS:File #2009-14 AV Tax Map 72.-1-57.8 David O'Connor seeking a 50' shoreline setback variance to build a 8' x 10' deck over rocks on shore. Parcel located at 7131 State Rte 8. ZBA member Dan Smith stated that this is the minimal size to alleviate the practical difficulty as it is under 100 square feet referring to the previous application for variances then made a motion to approve the 50' shoreline setback variance as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties, the benefit sought be applicants cannot be achieved by other means, this is a substantial request, no adverse effect or impact on the physical or environmental conditions in the neighborhood, the alleged difficulty was not self created, 2nd by Curt Castner. All Ayes

File #2009-16 AV Tax Map 122.16-1-2 Morris, William and Judy seeking a 100' shoreline setback after the fact variance to replace an existing boathouse roof with a flat roof/porch. Parcel located on 48 Bridle Lane. The board noted that this application is exempt from SEQRA. Being no further comments Gary Frenz made a motion to approve the 100' shoreline setback variance as there would be no undesirable change to the character of the neighborhood or detriment to nearby properties as this is a minimal change, the benefit sought be applicants cannot be achieved by other mean as this gives the applicant safe access to the shore, this is a substantial request but it suits the needs concerning safety, no adverse effect or impact on the physical or environmental conditions in the neighborhood as this will help preserve the existing condition and protect vegetation, the alleged difficulty was not self created, 2nd by Curt Castner. All Ayes.

NEW BUSINESS:

File # 2009-17AV Tax Map 55.-1-10.2 Metzger, Ellen and John seeking a 44.2 feet side yard setback variance, a 206 square feet dock surface area variance and a 50 foot dock length variance to build a dock on parcel located at 62 Counter Point Lane. Matt Fuller, representing the applicant stated that they are working with the APA. Brief discussion ensued regarding the use of bubblers and ice in the winter and the submission of an additional drawing of the project. Cheryl Erickson stated that the entire shoreline is considered wetlands and asked if the applicant will be doing any dredging. Matt Fuller stated that there would be no dredging. Being no further comments or questions, Gary Frenz made a motion to deem the application complete and schedule a public hearing, 2nd by Curt Castner. All Ayes.

File #2009-18AV Tax Map 38.20-1-10 Cavanna, Joan seeking a 10'3" shoreline frontage variance to replace home on parcel at 17 Horicon Birches Rd. Doug Wilk, representing the applicant stated that he is the applicants son-in-law and architect of this project explaining that the existing home is 39'7" from the lakefront and the new home would be 39'7" from the lake front taking advantage of the site for minimum excavation and tree clearing, there will be a new septic system within the 50' setback of the lake. Being no further comments or questions, Curt Castner 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 10:15 PM

Respectfully Submitted.
Christine Smith-Hayes, Secretary