

**Town of Horicon
Zoning Board of Appeals**

**June 27, 2018
Minutes**

Present at Meeting:

Cheryl Erickson, Chairperson
Scott Olson, Vice-Chairperson
Gary Frenz
Pat Farrell
James Dewar
Rich Nawrot, Alternate # 1

Also Present: Town Attorney, Justin Grassi, Michael Raymond, Steve Ostrander, Doug Henshaw, Bret Winchip, Bill McGhie, Bob Olson, Frank Hill, Ralph Ostrander, Bette Lynch, Terrence Lynch, Michael Smith and Jim Steen.

Chairperson Cheryl Erickson called the meeting to order at 7:00 p.m.

Pledge

Review of Minutes: Gary Frenz made a motion to accept the April 24, 2018 minutes as amended. Second by James Dewar. **ALL AYES.**

NEW BUSINESS:

**File # 2018-10 AV
Tax Map # 36.3-3-5**
Sand Point Beach Associates Inc. Steve Ostrander, President
219 East Shore Drive
Schroon Lake, NY

Requesting an Area Variance from **Zoning Code 6.10** for a Shoreline setback of 28' where 50' is required in order to renovate a 28' x 16' rental cottage (Cottage 11). Also requesting an Area Variance from **Zoning Code 6.10** for a shoreline setback of 31' where 50' is required in order to renovate a 28' x 16' rental cottage (Cottage 12).

Steve Ostrander was there to speak about his proposed project. Sand Point consists of 34 cabins on a 3 acre lot and half of the cabins are rented out weekly for the season. He wants to replace with new cabins number 11 and number 12 in order to meet the Property Maintenance Code for the County. He will need to increase the floor space to 50 square feet per bedroom occupancy. Five years ago they went through this when replacing another cabin. The intent is to maintain the same occupancy so they need to increase the square footage by doing a split level which will increase the height by 7 feet. Everything else remains the same on the footprint. The location from water is slightly larger floor area and 7 foot taller structure.

Pat Farrell asked if it will just be these two cabins or are there plans to replace additional cabins.

Steve Ostrander said they have 16 rental cabins and they already replaced two and the intent is to replace one every two and one-half years.

Chairperson Cheryl Erickson asked if they will be replacing the septic as well.

Steve Ostrander stated that they upgraded the septic system five years ago and it was engineered by Bret Winchip. They did a new major overhaul to the septic system costing about 150,000 dollars. They will not be changing occupancy so this system should be good for the next fifty years.

Chairperson Cheryl Erickson asked if they will be on the same footprint and just an increase in height.

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Steve Ostrander stated that yes they will be essentially on the same foot print. The intent is to build the same cabin twice which increases the square footage but on the same footprint.

Scott Olson asked if this is consistent with other cabins that were upgraded.

Steve Ostrander stated they will essentially be the same. They went to a split level to increase the square footage.

Pat Farrell made a motion to deem both applications complete for cabin 11 and cabin 12 and set a Public Hearing for July 24, 2018. Second by Gray Frenz. **ALL AYES.**

NEW BUSINESS:

FILE # 2018-11 AV
Tax Map 72.13-2-21
Michael and Terri Smith
1 Smith Lane
Brant Lake, NY 12815

Requesting an Area Variance from **Zoning Code 6.10** for a Roadway setback from "Butler Loop" for a 20' x 28' garage will sit 25' from the road where 60' is required, a side yard setback of 2' where 15' is required and a variance from **Zoning Code 6.30 A** for a 36.8% coverage of the lot where 30% is the maximum lot coverage.

Michael Smith was there to speak about his proposed project. His intent is to remove three sheds and replace with a new garage. The reason for the size of the garage is the need to store jet skis and use for other storage. Mr. Smith is now in the process of purchasing the lot that affects the side yard setback and the rear setback. The Smith's anticipate purchase in the next two to three weeks. He showed the Board members on the map the lot he is intending on purchasing next to his current lot where he is seeking the variances.

Scott Olson asked once you purchase this lot will you still need the variance.

Justin Grassi stated that unless he combines the lot otherwise the variances go with the land for instance if he buys that lot and sells it the variances would still go with the land.

Down the road they would like to apply for a boundary line adjustment but were not intending to combine the two lots in its entirety.

Scott Olson stated to Mr. Smith that he could also build the garage on the other lot.

Michael Smith stated right now they intend to put the garage on this lot because they are not sure what the plans are for future building on which lot.

Chairperson Cheryl Erickson asked why he is not putting the garage where the three sheds are now located.

Michael Smith stated the garage will be going where the three sheds are now located.

Gary Frenz asked if the garage will have an attic.

Michael Smith responded no attic.

Being no further questions or comments Pat Farrell made a motion to deem the application complete and set a Public Hearing for July 24, 2018. Second by Jim Dewar. **ALL AYES.**

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NEW BUSINESS:

**File # 2018-12 AV
Tax Map 36.12-1-70**
James Bombicino
450 and 452 East Shore Drive
Adirondack, NY 12808

Requesting an Area Variance from **Zoning Code 6.10** for Density variance where the proposed acreage is .327 acre where 1.3 acre is required for lot one and lot two. Roadway frontage variances for lot 1 and lot 2 where both log houses on each lot comprises 50' of road frontage where 100' is required. Side yard setback variances for lot 1 and lot 2 where both houses sit at 4.7' where 15' is required.

James Bombicino was at the meeting to speak about his proposed project. Mr. Bombicino is requesting variances in order to separate (subdivide) two cabins on one lot that his parents originally purchased back in 1969 when Blue Sky first started. My folks purchased them with the Silers as co-tenants in common. There were two small cabins on site and subsequently they put up two new cabins right away. The cabins have been there for 45 years. They have separate utilities, separate septic systems, separate driveways and separate addresses. He just wants to draw a line down the middle to have two separate lots in order for each one to have legal ownership of their properties.

Chairperson Cheryl Erickson asked if they already have separate septic systems.

James Bombicino stated yes, separate septic systems.

Pat Farrell stated that he went to look at the property and thinks they were built well and he agrees with James Bombicino that they should be separated.

Chairperson Cheryl Erickson asked if we have a deed for the property.

Zoning Administrator Jim Steen passed out copies of the deeds.

Chairperson Cheryl Erickson asked what year were these cabins were put up.

James Bombicino stated that they were built in 1971.

Zoning Administrator Jim Steen stated that when James Bombicino first approached him with the proposal he called the APA about the subdivision. The APA said no new lot will be created and there will be no increase in density so there is no problem separating these lots.

Being no further questions or comments Pat Farrell made a motion to deem the application complete and set a Public Hearing on July 24, 2018. Second by James Dewar. **ALL AYES.**

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PUBLIC HEARING: **File # 2018-08 AV**
 Tax Map # 55.10-1-15
 Terrence Lynch
 12 Sand Beach Way
 Brant Lake, NY 12815

Requesting an Area Variance from **Zoning Code 6.10** for a front yard setback of 19' where 60' is required and a shoreline setback of 51.5' where 100' is required in order to alter the roof line and build a 12' x19' dormer with a 4' x 10' balcony within the existing structure.

Chairperson Cheryl Erickson stated that we would now open the Public Hearing for Terrence Lynch.

Gary Frenz stated that he must recuse himself because he and the Lynch's are close friends.

Chairperson Cheryl Erickson asked Rich Nawrot to join the Board at this time.

Terrence Lynch spoke about his proposed project. So since last month's meeting they have done some more detailed engineering because of structural changes within the walls. It does not have to do with the dormer part. He has deleted the top roofs from the scope of the project and presented new engineered plans for the Board to review. There will be no changes to the dormer itself. He is still building a 12' x 19' dormer with a 4'x 10' balcony.

Terrence Lynch passed out copies of the new engineered plan to the Board members in order for them to review.

Scott Olson stated that Mr. Lynch was originally was going to change the direction of the water with the old roof line and now this will no longer affect the direction of the water.

Terrence Lynch stated that he will do other drainage to address the issues.

Scott Olson then asked if this changes anything as far as the setbacks go. The dormer is still the same dimensions and reason for the setbacks.

Terrence Lynch responded no it will not change the requested variances for the setbacks. This will reduce the height of the building only making it a little shorter but still under the 40' height maximum.

Chairperson Cheryl Erickson asked if he will be increasing the number of bedrooms.

Terrence Lynch stated no changes to the number of bedrooms. He will be removing one bedroom and creating a larger space for the living room and making a new bedroom in the dormer.

Scott Olson asked Terrence Lynch to reiterate the reason for the proposed project again.

Terrence Lynch stated it is to replace one of the smaller bedrooms and make a larger bedroom.

Chairperson Cheryl Erickson asked if the den going to have a door on it.

Terrence Lynch stated no door just taking down the walls to increase the size of the living area.

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A discussion ensued between Terrence Lynch and the Board members in order to show where the rooms will be located.

Chairperson Cheryl Erickson asked if the new dormer will be visible on the front and the back side of the house.

Terrence Lynch stated yes it will be visible from the front and the back.

James Dewar asked Terrence Lynch if when driving by the property on Palisades Rd can you see the roof.

Terrence Lynch stated the roof of the house is below the elevation of Palisades Road in this area and not restricting anyone's view.

Chairperson Cheryl Erickson said that the revised plans given were for the changes on the outside. Now what are the changes on the inside?

Terrence Lynch stated if the Board looks at the floor plan they can see where the rooms will be located.

The Board Members and Terrence Lynch reviewed the floor plan to see where the rooms will be located.

Rich Nawrot asked if he will do something with the drainage with the new roof line.

Terrence Lynch stated he will put more drainage work in the back because it's flat in the back and he will direct it to the side of the house. It only gets to be a problem with the spring thaw.

Chairperson Cheryl Erickson said that the loft sitting room is big and can easily become a bedroom. Is that a railing or a solid wall?

Terrence Lynch stated it is just a railing.

Zoning Administrator Jim Steen asked if the area around the staircase on the second floor is a hall.

Terrence Lynch stated yes and it has a railing and is open to below.

Zoning Administrator Jim Steen asked which bedroom on the floor plan is being eliminated. He also asked where on the floor plan the bedrooms are being located.

Terrence Lynch showed Zoning Administrator Jim Steen and the Board members the locations of the rooms and what bedroom will be eliminated.

Chairperson Cheryl Erickson stated that he is limited to 3 bedrooms and they are trying to make sure other spaces on the floor plan that could possibly be a bedroom like the hall cannot be made into a bedroom.

Zoning Administrator Jim Steen showed the Board Members the original floor plan approved in 2003 in order to clarify where the existing rooms will be located in the new structure from where they were located on the original floor plan.

Terrence Lynch went over the floor plan with the Board members showing what each room is and what each room will become.

Being no further questions or comments Pat Farrell made a motion to close the Public Hearing. Second by Scott Olson. **ALL AYES.**

Before beginning to discuss the criteria it was discovered that a mistake was made on the Agenda for the variances requests. It was thought that the Public Hearing was noticed incorrectly and had to be re-noticed. At that point the Board decided to re-open the Public

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Hearing and leave it opened in order to re-notice with the correct variance requests. Chairperson Cheryl Erickson made a motion to re-open the Public Hearing. Second by Scott Olson. **ALL AYES.**

PUBLIC HEARING: **File # 2018-09**
 Tax Map # 55.10-1-12
 Douglas and Marilyn Henshaw
 18 Sand Beach Way 12815

Requesting an Area Variances from **Zoning Code 6.10** for a shoreline setback of 18.5' where 100' is required in order to build a staircase, patio, retaining wall and house. A Roadway setback on Sand Beach Way for a garage and retaining wall to sit 28.5' where 60' is required. A Roadway setback on Sand Beach Point of 31.9' where 60' is required. A Northwest side yard setback of 1' where 15' is required and a Northeast side yard setback of 3.3' where 15' is required.

Gary Frenz rejoined the Board at this time and Rich Nawrot went back to the alternate seat.

Pat Farrell asked if we have heard back on the wells and septic from the Town Board yet.

Zoning Administrator Jim Steen stated that the application was never formally submitted to the Town Board as of yet.

Chairperson Cheryl Erickson stated that she understands he changed the orientation and some of the setback variance requests have changed.

Douglas Henshaw stated that he changed the garage rotation in response to a request from neighbor Mike Raymond which increased the setback distance from Mike's property and he accommodated that request.

Douglas Henshaw went on to state that there is a problem with a well that is on Mike Raymond's property and it has become problematic for septic setbacks on his property. The owner of the well is Kerry Speshock and he has spoken to her several times and offered to drill her a new well at his expense. He will take care of all the permitting, will grant her an easement for the water line if need be and make sure that the water is potable. He made those offers in writing to her after Memorial Day weekend and has not heard back from her yet. Mr. Henshaw stated that he is trying to work to resolve this issue. Mr. Henshaw's engineer, Bret Winchip states that an ultra violet system can be used on her well and his well that would be functional and safe for all involved. Mr. Henshaw is hoping to go through the Public Hearing process subject to the Town Board of Health approval. So the change in plan is the rotation in the garage.

Chairperson Cheryl Erickson asked if he is changing the variance request from the original request.

Douglas Henshaw stated yes and passed out the new information on the variance numbers from the engineer for the Board to review.

Brett Winchip told the Board members where the changes will be and it was decided that there was an error on the original request with the side yard setbacks. It should be a requested variance from the N.E. side yard of 14' where 15' is required and the N.W. setback should be an 11.7' side yard setback where 15' is required.

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Chairperson Cheryl Erickson asked Mr. Henshaw if he could provide the Board members with a format that they are more familiar with in order to see the changes and present the corrected setbacks variances at the next ZBA meeting on July 24, 2018. This will be re-noticed and the Public Hearing will be kept open until next month.

Scott Olson asked if the well question gets answered would this decision be contingent on the well approval.

Town Attorney Justin Grassi explained that the Board can go forward with their deliberation with the understanding that the ZBA decision is based on all of the other decisions.

Mr. Henshaw stated that the ZBA has no jurisdiction on wells and septic systems.

Discussion ensued with the Board members and Mr. Henshaw regarding septic systems approvals and what happens to this request if the Town Board does not approve the septic variance.

Bret Winchip stated that holding tanks are a final option and one last resort.

Chairperson Cheryl Erickson requested that Mr. Henshaw re-submit the variance requests in a form that the Board is more familiar with.

Zoning Administrator Jim Steen stated that he and Bret Winchip will provide that information at the next ZBA meeting.

Chairperson Cheryl Erickson stated that we will keep this Public Hearing open and re-notice the hearing with the proper variance requests which Mr. Henshaw will present at the next meeting on July 24, 2018.

Mike Raymond asked if he could get an indication of the increase in distance from his property line with the rotation of the garage.

Bret Winchip stated one setback is increased to 16' from 14.9' and 1.3' to the other neighbor.

A lengthy discussion ensued regarding the new setbacks with the Board members, Mike Raymond, Zoning Administrator and Mr. Henshaw.

Mike Raymond, Bret Winchip and Zoning Administrator Jim Steen looked at the map and discussed where the changes will be to Mike Raymond's property line.

Chairperson Cheryl Erickson stated that she looked at the property and noticed that from lake the house is already sitting up high. The neighbor has three stories and Mr. Henshaw's roofline is higher. She is concerned that Mr. Henshaw's house will be significantly higher than the houses next to his. Chairperson Cheryl Erickson then requested that at the next meeting Mr. Henshaw bring a presentation with overlays of the house in order for the Board to get an indication of the height of the house after it is built. She also suggested that they could do some helium balloons at the site in order to indicate the height from the lakeside.

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Chairperson Cheryl Erickson stated that Mr. Henshaw's house is significantly larger than the other homes in the neighborhood and that concerns her very much. She stated that she had Secretary Terri Katsch pull information on the square footage of the neighboring homes.

Mr. Henshaw requested a copy of that information.

Mr. Henshaw stated he would provide the information requested by Chairperson Cheryl Erickson for the next ZBA meeting on July 24, 2018.

Zoning Administrator told Mr. Henshaw that he could email the requested information to the Zoning Office as soon as he can prior to the next hearing.

Chairperson Cheryl Erickson stated that this Public Hearing will be held open until the July 24, 2018 ZBA meeting and at that time accurate variance requests and other information will be presented. It will be re-noticed as well.

At this point in the meeting Mr. Lynch came forward to show the Board members the notice that had gone out to the Public and the adjoining owners. It was then determined that this had been noticed correctly and we would then continue with the Lynch application in order to make a decision on the proposal at this meeting.

UNFINISHED BUSINESS: **File # 2018-08 AV**
 Tax Map # 55.10-1-15
 Terrence Lynch
 12 Sand Beach Way
 Brant Lake, NY 12815

Requesting an Area Variance from **Zoning Code 6.10** for a front yard setback of 19' where 60' is required and a shoreline setback of 51.5' where 100' is required in order to alter the roof line and build a 12' x19' dormer with a 4' x 10' balcony within the existing structure.

Gary Frenz recused himself from this application because of his friendship with Mr. Lynch.

Alternate Rich Nawrot rejoined the Board in place of Gary Frenz.

Because the changes have no bearing on the setback requests the Board decided to move forward with the discussion.

Pat Farrell made a motion to close the Public Hearing for Terrence Lynch. Second by Scott Olson. ALL AYES.

Chairperson Cheryl Erickson stated that the Board would now go ahead and discuss the Balancing Test to balance the benefit to the applicant with detriment to the health, safety and welfare of the community.

The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicant because he is limited with what he can build so he is going to build up. The main objective to move the bedroom upstairs and add a dormer. The balcony does not extend any farther out. The proposed changes to the house will decrease the distance to the shoreline.
2. There will be no undesirable change in the neighborhood character or undesirable change to nearby properties because it is in keeping with the character of the neighborhood.

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3. The request is not substantial, about 50% on one side and 33% on the other side; however it is on the same footprint and does not extend any farther back.
4. The proposed project will not have any adverse physical or environmental effects. It will make the water flow slightly better and not puddle up in front of the house and will be limited to 3 bedrooms only.
5. The proposed project is self-created because it's not required but that does not preclude a negative decision.
6. This is the minimum variance necessary. The variance goes with the footprint of the house and does not extend any further out.

Being no further comments or questions Pat Farrell made a motion to grant the Area Variance requested for a front yard setback of 19' where 60' is required and a shoreline setback of 51.5' where 100' is required in order to alter the roof line and build a 12' x19' dormer with a 4' x 10' balcony within the existing structure. Second by James Dewar. **ALL AYES.**

Communications: None

Public Comments: None

Board Comments: None

Being no further comments or questions Rich Nawrot made a motion to adjourn the meeting. Second by Pat Farrell. **ALL AYES.**

Adjourn: 8:45 PM

Next Meeting Date: July 24, 2018

Respectfully Submitted,
Terri Katsch, Secretary