

**Present at Meeting:**

Cheryl Erickson, Chair  
James Dewar, Vice Chair  
Ross Schoembs  
Troy Scripture  
Neil Brandmaier, Alternate #2

**Also Present:** Town Attorney Brian Reichenbach, Zoning Administrator Matt Magee, Jason Letts, David D'Amore from CT Male Associates.

**Pledge**

**Chair appoints Neil Brandmaier as a voting member in the absence of Rich Nawot and Alternate, Brian Logan.**

**Review of Minutes:** Ross Schoembs made a motion to accept the September 28, 2021 minutes with corrections. Second by Vice-Chair Jim Dewar. **ALL AYES.**

Ross Schoembs made a motion to accept the October 7, 2021 minutes as written. Second by Troy Scripture. **ALL AYES.**

**NEW BUSINESS:**

**File # 2021-11 AV**  
**Tax Map #: 55.10-1-5**  
Jason Letts  
18 North Sand Beach Rd  
Brant Lake, NY 12815

Requesting Area Variances from **Section 6.10** for variances to build a +/-1,071 sq. ft. residential cottage with an attached 319 sq. ft. screened in porch. Requesting a Shoreline setback for the cottage to sit at 30.7' where 100' is required, requesting a Roadway setback for the cottage to sit at 44.4' where 60' is required and a side yard setback for the cottage to sit at 12.5' where 15' is required.

David D'Amore from CT Male Associates was present to speak about the proposed project. David stated that the goal is to build a 1,000 square foot seasonal residence on a pre-existing non-conforming property, so a density variance is not necessary. The property was subdivided prior to any Town of Horicon Zoning Law regulations and APA regulations. A new map was presented to the Board members tonight because an update to the Sand Beach Way Road was not included in the table for the setbacks in the previous map. They tried to overcome the non-conforming status by limiting the structure to 1,000 square feet, with 3 small bedrooms only for seasonal use. The site is challenging with a steep slope from Palisades Road to the water's edge. They are maintaining the character of the neighborhood. They are limiting its profile to one story with a low slope roof built into the hill. They settled on this orientation as a best fit for the property. There will be no significant paving. There will be site clearing for the septic system. The lakeside set back is measured from the mean high-water mark at 30.7' to overcome the inconsistencies of the site.

Chair Cheryl Erickson asked what the road frontage on the property is and what are the dimensions of the proposed structure on this property.

David D'Amore responded about 81.49' road frontage dimension. The dimensions of the home are 48' long and 20' deep. The depth from the retaining wall to the porch roof line is about 35'.

Neil Brandmaier asked David D'Amore about a previous comment stating, from a tax perspective this is approved as a lot but a non-conforming lot. I do not understand the nuance of that.

Zoning Administrator Matt Magee explained that this is a taxable vacant lot and was subdivided back in 1961 and therefore is a pre-existing, non-conforming lot and any lot improved upon would of course increase the tax revenue to the Town.

Neil Brandmaier stated just because it is a tax lot does not mean it can be built upon.

ZA Matt Magee stated what this gets into is it was a legal subdivision back in 1961 and therefore is a legal lot to be built upon. In the application somewhere it stated it would be a good thing if the lot was improved with a structure.

David D'Amore stated it would increase tax revenue to the town if built upon and the dimensions were established by the subdivision back in 1961 pre-dating zoning ordinance. It is a legal non-conforming lot to be built upon. Requires variances from the ZBA necessary to secure a permit.

Neil Brandmaier said and what if we do not give you a variance.

David D'Amore stated it prevents Mr. Letts from submitting a building permit.

Neil Brandmaier asked what the options for Mr. Letts would be.

David D'Amore stated Mr. Letts would have to confer with his attorney to see what his options would be.

Vice-Chair Jim Dewar said he looked up the tax map and it states that a Hannah Van Wely owns the property.

Jason Letts said that is his wife and he and his wife own the property.

Neil Brandmaier stated that the you show a 30'.7" setback to the lake. And that is to what structure, the patio?

David D'Amore stated where the arrow is touching is edge of the roof. The actual corner of the porch is about 14" – 16" in from that line.

Neil Brandmaier asked if there is a way to push that back or make a second story so that it is not 69'.3" foot setback from the lake.

David D'Amore stated the neighbor on lot 18 is considerably closer to the lake and lot 16 is not as close to the lake; however, they feel that staying in commonality with the character of the properties to either side and it created a density and an alignment of the structures that we felt was not unreasonable for the size of the property. To answer your question, sure we could redesign and reconfigure this if necessary but that is something we would have to deal with if that was the determination.

Neil Brandmaier said just north of this property there is a two-story property located about one up from your property.

David D'Amore stated yes but we were trying to limit the mass that would project on the property and did not want to create a large roof profile by having multiple stories basically we want to create a low slope with grass trays to make

it a green roof so that it will blend in so that when you drive by you will see the corners of the foundation. It will look like lawn with a little fence line looking down from Palisades Rd; from the lake you will see a little elevation and will be conservative with the design to be consistent with the other properties. The perception of the proximity to the water's edge is driven by the height of the building. It is consistent with the neighbors on either side.

Vice-Chair Jim Dewar asked what will the foundation be like?

You will have a truncated u-shaped retaining wall on the roadside holding up the earth on the upslope side there will be some elevation. From the lake side you will see the 12" thick poured concrete foundation on the road side a bit of the ears on either side as it turns towards the lake for a short distance just in order to control the slope of the property as it goes towards the lake but to control the slope of the property that goes towards the lake to ensure the necessary egress windows and things of that nature.

Vice-Chair Jim Dewar said if there will not be any paving where will the car be parked?

David D'Amore stated that it is drivable and were not going to pave it. There is a gravelly surface of the current roadway into the property and there are other places on the property to park the car. There is graded grassed area that connects the main driveway on a bit of a slope and can park there and not block Sand Beach Way Road.

Chair Cheryl Erickson said that most if not all of the trees will be removed.

David D' Amore said yes, we will have to do a lot of removal where the septic infiltration beds are located. The lakeside will not be touched.

Chair Cheryl Erickson asked what is the location of the proposed septic?

David D'Amore responded the placement of the septic is shown on the plan and explained the location of the septic and workings of the septic system. There will be some regrading to create the necessary setbacks for the septic system and that is why the trees need to be removed in that location.

Ross Schoembs asked if a house is located in that area to the right of the property.

David D'Amore stated, yes there is a three-story home located there and our septic will be 9'.4" from that sideline.

Chair Cheryl Erickson said that it is on the footprint of the septic system that was proposed at the time of the subdivision.

Troy Scripture asked David D'Amore to provide the Board with elevations.

David D'Amore responded yes, I can provide them to the Board.

Chair Cheryl Erickson asked if the area is staked out on the property and if not can you have the areas staked so that when the Board visits the property they can get an idea of the proposed locations prior to the next meeting. David can send an email to Zoning Secretary, Terri Katsch when it is done.

David D'Amore stated yes, he will have it staked in the next week or so and will send the email as requested.

Zoning Administrator Matt Magee stated that within 35' of the mean high-water mark, no more than 30 percent of the trees in excess of six inches diameter at breast height (4 ½ feet above ground) may be cut over any 10-year period. And within 6' of the mean high-water mark, no more than 30 percent of any vegetation may be removed.

Chair Cheryl Erickson asked if there have been any trees cut yet?

Jason Letts responded that it seems like trees were cut when we purchased.

Chair Cheryl Erickson asked when he purchased the property.

Jason Letts responded about a year ago.

Brian Reichenbach asked if this subdivision is listed in 13.10 code regarding a non-conforming lot as listed in Appendix F of the Zoning Law for pre-existing subdivisions or was it a subdivision prior to the enactment of the Zoning Ordinance.

David D'Amore responded it was a subdivision created prior to the enactment of the Zoning Ordinance.

Chair Cheryl Erickson asked David D'Amore to please provide the architectural elevations, architecture plans with dimensions, delineate property lines, Schedule "A" of the deed, stake out the property and any easements or rights of way for the road.

Vice-Chair Jim Dewar asked if this N. Sand Beach Road is a private road and does it have language built into the deed reflecting that right of way.

Matt Magee responded it is a right of way and would be in the deed for other homes on N. Sand Beach Way Road as well as Jason Lett's deed. It is considered a road.

Neil Brandmaier asked if they found any ledge rock on the property.

David D'Amore responded that so far, they have not found ledge rock, but we will not really know until excavating.

Troy Scripture asked if they know if any of the neighbors found ledge on their properties.

Jason Letts responded he spoke with the Hall's and they had no issues with their construction.

Neil Brandmaier asked if the septic has been approved.

David D' Amore said it is under review by the NYS Board of Health at the moment.

Vice-Chair James Dewar asked what type of septic will be installed.

Ross Schoembs responded it is a Norweco system.

Neil Brandmaier asked if we should ask for options due to the size of the variance.

Chair Cheryl Erickson said you should always think of that and we don't want to catch you flat footed but we are required to give you the minimum variance necessary and we will be looking at the options when we do our review and you just might want to think of them as well.

David D'Amore asked if you are saying I should submit options to you.

Chair Cheryl Erickson said no we are not looking for that, just asking that you think about options.

Neil Brandmaier said it's a 70' variance that you are asking for which is significant.

David D'Amore stated it's no different from the neighbor's setbacks it's actually less.

Chair Cheryl Erickson said their homes were pre-existing so that makes it a little different.

David D'Amore said it establishes the precedent for the neighborhood, and we are keeping in that context of the neighborhood. I am not saying there aren't other options.

Neil Brandmaier said, "I am slightly picking up a tone of legalese here".

David D'Amore said unfortunately when it comes to variance requests we rely on legal counsel and we have consulted an attorney, not to be antagonistic in any way, just in order to provide the relevant information for the Board's determination.

Brian Reichenbach said that it is a legal standard of consulting with an attorney when coming before an Administrative body and talking to a lawyer is smart. The Board has the responsibility of granting the minimum variance necessary, the applicant has the responsibility to provide the Board the wants of the client.

Neil Brandmaier said, I was not suggesting moving the entire footprint back just the porch. What is the height of the building?

David D'Amore stated it will be 12' in height.

Neil Brandmaier does not want to feel if I don't approve this there will be legal action after that.

Chair Cheryl Erickson said that the requested information should be provided to the Zoning Office prior to the Public Hearing on November 16, 2021, which is scheduled earlier due to the Thanksgiving Holiday. The information should be provided by email to the Zoning Office by November 9, 2021. If we don't receive the requested information than we can schedule the Public Hearing for the next month which would be December 28, 2021.

Zoning Administrator Matt Magee suggested the Board members go and look at the property prior to the next meeting.

Chair Cheryl Erickson said yes, the Board members are planning to walk the property and that is why we requested the staking the structure placement and sidelines.

David D'Amore stated that he will contact his survey crew to get the property and structure staked out by next week and the other information will be sent via email by November 9, 2021.

Being no further questions or comments, Vice-Chair Jim Dewar made a motion to deem the application complete and set a Public Hearing on November 16, 2021 provided the requested information is submitted to the Zoning Office by November 9, 2021. Second by Troy Scripture. **ALL AYES.**

**Reminders:** None

**Correspondence:** None

**Public Comments:** None

**Board Comments:** None

Being no further comments Vice-Chair Jim Dewar made a motion to adjourn the meeting. Second by Neil Brandmaier. **ALL AYES.**

**Adjourn:** 8:00 PM

**Next meeting date:** November 16, 2021

Respectfully Submitted,  
*Terri Katsch*, Secretary