

Present at Meeting:

Cheryl Erickson, Chair
James Dewar, Vice Chair
Rich Nawrot
Ross Schoembs
Troy Scripture
Neil Brandmaier, Alternate

Also Present: Town Attorney Leah Everhart, Bob Olson, Hyde Clarke, Jason Letts, David D'Amore, Nicole and John Robinson, Al Puppo and John Hall.

Pledge

Review of Minutes: Chair Cheryl Erickson stated that the minutes from December 28, 2021 will be reviewed at the February 22, 2022 meeting.

PUBLIC HEARING:

File # 2021-13 AV
Tax Map #: 71.12-1-19
John Robinson
11 Chippewa Loop
Brant Lake, NY 12815

Requesting an Area Variance from **Section 6.10** for a roadway and side-yard setbacks to replace a single-story structure (on footers) with a two-story structure on a walk-out basement foundation. The roadway setback request is for a 47'.10' variance for the structure to sit at 12'2" where 60' is required. The side yard setback request is for a 5'4" variance for the structure to sit at 9'8" where 15' is required.

John Robinson was present to speak about his project. He stated he is the third generation of owners of Chippewa Loop. They are looking to expand their home because they have moved up to the area permanently and need more space for offices to work from home. What is existing right now has constraints. John Robinson showed the Board members the site plan and what he is proposing, and the variances needed. The existing structure over the garage has three bedrooms and a 1½ bath. The other part of the structure on footers that has 2 bedrooms and one bath. We want to make the single-story structure into a single-story structure with a walk out basement, the basement will have an additional bedroom and bathroom and some open space. The main level has open area kitchen and bathroom. The existing structure has a wrap around deck. Most of everything they are asking for is on existing footprint except for the mudroom/bathroom on backside and wraparound porch on the one end that faces Palisades Rd. They want to extend the roofline to cover the porch. Bedroom on second floor will be bedroom and office for wife. In front where the deck is a little bump out structure.

Rich Nawrot asked about the variance for the bathroom he is adding.

John Robinson stated that is about 9' from the west side setback.

Rich Nawrot asked John Robinson to point to the 12' 2" variance from the side-yard and what is located at that point.

John Robinson stated that is where the office/den is located behind the deck to sit at 2'10" from the side-yard.

Rich Nawrot asked John Robinson if he did not add that office then would the structure be within the 15' required side-yard setback.

John Robinson stated that the pre-existing non-conforming structure is less than 15' already.

Ross Schoembs said that the existing structure is 8' from the side-yard setback.

John Robinson stated that is correct.

Chair Cheryl Erickson stated you are getting closer to the neighbor.

John Robinson stated that is correct.

Chair Cheryl Erickson stated all of the back of your house is getting closer to the neighbors.

John Robinson stated that they will only be looking out at the common area of the property and the structure to be added is in the back corner and the neighbors can still see the lake.

Rich Nawrot asked what number is your house?

John Robinson stated his house is number 4. Puppo's are number 3 and the Meyers are number 5.

Ross Schoembs asked how much higher is the roof line over the office?

John Robinson stated about 1 foot higher over the deck and he pointed out to the Board members how much higher the roof lines will be as the structure is built out across the structure. The roof will be 9' higher to the bedrooms. You can see the roof elevations from the proposed left elevation.

There was a discussion regarding the height of the structure as shown on page A8.

The height of the existing structure is 35' tall and will remain at 35' tall once completed.

Vice-Chair Jim Dewar had a discussion with the applicant and the Board members about the view the neighbors currently have and how the houses are angled in the Chippewa Loop.

John Robinson responded that all the houses have different views. It will depend on where they are looking out from their homes. He showed where the lake is located and where the common ground is located on the plot plan.

Rich Nawrot asking where the office/bedroom is located.

John Robinson responded by pointing out on the map the location of the office/bedroom for all the Board members to see. He stated that the Puppo's house sits higher up than where he is requesting the 2' 10" setback on the side.

Chair Cheryl Erickson asked about the proposed square footage and the current square footage of the structure and would like more information from the applicant. Page A8 shows the elevations and there are questions on the drawings presented. The Board would like to see the actual dimensions on the drawings. Chair Cheryl Erickson wants the applicant to present the square footage of the proposed structure and the current square footage on the proposed project. She would like the square footage of the other homes in Chippewa Loop.

A lengthy discussion was had regarding the height of the structure.

Chair Cheryl Erickson asked if there were any other questions at this time.

Chippewa Loop resident Al Puppo who lives at #9 stated he had been a resident for 36 years although not a full time resident. He studied the plans daily for a month. He has figured out all the elevations and he posted pictures on the bulletin board to be able to explain things better to the Board members. He showed the Board members the location of his house. He showed the Board members his perspective from inside his porch on his current views. He will be able to see the lake; his problem is with the common area that is a playground for the kids. He will not be able to see the common area or the kids playing, and his grandson plays there. The proposed house is 80' long and it's just too big. There is a steep embankment from Robinson's house up to his house and he is concerned about erosion on the embankment. The two houses will only be 20' apart. It will effect his property values and he will be looking at a 35' roof.

Vice-Chair Jim Dewar Mr. Puppo how he would feel about the expansion being on the other side of the home expansion.

Al Puppo responded there would not be enough room to expand on that side and does he really need 2 offices and 4 bathrooms.

Rich Nawrot stated that he is going 2' to the Puppo property line.

Leah Everheart asked Mr. Puppo If he wants to submit the pictures and drawings for the record.

Al Puppo responded yes; I would like them in the record.

Chair Cheryl Erickson asked if anyone else would like to speak to this proposed project.

There were no other members of the Public present to speak on the proposed project.

Chair Cheryl Erickson stated that the Board received additional letters of opposition to the proposal. First one is from Al Puppo and is submitted into the record. The second letter is from Tom and Joan Speziale who are concerned that the maximum lot coverage will be exceeded and effect on the character of the neighborhood and concerned about the elevations. The third letter received from Mr. Novello who is opposed to the proposed project who feels it is a detriment to the character of the neighborhood, he has concerns about the elevations and the Puppo's porch losing the view of the playground where Mr Puppo's grandson plays. He has concerns about the value of his home being reduced and the character of the neighborhood. The last letter is from Carol and Greg Sayler whose objections are the impact on the surrounding properties and its visual impact that would affect the view of the two adjacent properties. And would be an undesirable change to the character of the neighborhood.

Chair Cheryl Erickson stated that she would like to see the square footage of the current structure and the square footage of the proposed structure. Also, she would like to see the average square footage of all the homes in Chippewa Loop. She wants to see the percentage of lot coverage from Mr. Robinson for the proposed structure. Would like one conceptual drawing of the common 0-point line overlaid with the proposed and current footprints.

Chair Cheryl Erickson stated that the office area in the back is a major variance request and would Mr. Robinson be amenable to suggestions form the board for changes to the project because when the Board considers the Variance Criteria one consideration is if this is the minimum variance necessary for the proposed project.

Mr. Robinson responded yes; he would be interested in other suggestions.

Chair Cheryl Erickson stated that the area over the office is a major issue with your neighbors. If you could bring it into more conformity to preserve the character of the neighborhood and maybe using another part of the property.

Attorney Leah Everhart stated the Board has criteria to consider whether there are feasible alternatives to the proposal, and they consider other options to lessen the variance request.

Chair Cheryl Erickson asked if anyone else wished to comment.

John Robinson responded that he would like to clarify some things. The structure will not be 35' above the current ground level. The roof over the deck will only be 1'- 1 ½' above the current roof line and the deck is 12' wide. I will provide more elevations at the next meeting.

Chair Cheryl Erickson had another suggestion for John Robinson. Maybe not putting a roof over the deck.

Al Puppo responded that the roof over the office will still be there.

John Robinson responded that will only be 14' from ground level and not 23'.

A lengthy discussion took place regarding the views for the neighbors and the dimensions of the proposed project.

Troy Scripture and Al Puppo went over the drawings for the elevations. Troy Scripture was explaining to Mr. Puppo what the actual elevations that are proposed to clarify things for Mr. Puppo.

Chair Cheryl Erickson stated the Board members will go for a site visit of the property and proposed additions.

Ross Schoembs requested that an overlay of the footprint of the old and new building be presented at the next meeting.

Chair Cheryl Erickson stated that they will keep the Public Hearing open until next month on February 16, 2022. Mr. Robinson will give us the square footage of the old and new structure. For each piece of the roof line an overlay of those lines will be presented and footprint of the old and new building.

OLD BUSINESS:

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

Requesting an Area Variances from **Section 6.10** to build a +/- 1,071 sq. ft. residential cottage. Requesting a Shoreline setback for the cottage to sit at 48.2' where 100' is required creating a variance request of 51.8'. Requesting a Roadway setback for the cottage to sit at 33.5' where 60' is required creating a variance request of 26.5'.

Town Attorney Leah Everhart stated that the Public Hearing was closed last month. A draft resolution was presented to the Board.

Chair Cheryl Erickson stated that they went through the balancing test at the last meeting on December 28, 2021.

Leah Everhart asked the Board members how they wanted to approach the resolution tonight.

It was decided that the resolution presented to the Board will be read into the record tonight.

WHEREAS, Jason Letts (“Applicant”) made application to the Town of Horicon Zoning Board of Appeals on October 20, 2021 seeking three Area Variances on property located at 18 N. Sand Beach Road in the Town of Horicon (s/b/l 55.10-1-5) (“Application”); and

WHEREAS, the property is approximately .26± acres in size and is Lot 17 as shown on a subdivision map titled “Sand Beach Mountain Association” prepared by John B. Van Dusen, first dated August 1, 1960 and filed in the Warren County Clerk’s Office on March 7, 1963; and

WHEREAS, the property is located on the shores of Brant Lake in the R1-10 zoning district; and

WHEREAS, the Applicant seeks to construct a one-story, single-family structure; and

WHEREAS, as originally proposed, the footprint of the structure would be approximately 1,320 square feet; and

WHEREAS, the structure was originally proposed to be located 30.7 feet from the shoreline where 100 feet is required, 33.5 feet from the centerline of the adjacent roadway where 60 feet is required and 12.5 feet from a side property line where 15 feet is required; and

WHEREAS, the Application was deemed complete by the ZBA on October 26, 2021 and a public hearing was opened on November 16, 2021; and

WHEREAS, the Applicant made a number of changes to the proposed project following the ZBA’s October 26, 2021 meeting; and

WHEREAS, the Applicant altered the location of the proposed structure to move it further from the shoreline and closer to the roadway, specifically the Application was amended to reflect a proposed structure located 48.2 feet from the shoreline and 33.5 feet from the center of the adjacent roadway; and

WHEREAS, the amended plans now reflect a structure having a total footprint of 1,179 square feet inclusive of a 265-square foot screen porch; and

WHEREAS, because of these modifications, the Applicant is no longer seeking any variance to allow deviation from side yard setback requirements; and

WHEREAS, in addition, the Applicant is now proposing to include a swale and rain garden on the property to assist in controlling stormwater runoff and potentially help protect the wells on Lot 16 and the subject property; and

WHEREAS, the public hearing was continued at the ZBA’s December 28, 2021 meeting and, after all persons interested were heard, the public hearing was closed; and

WHEREAS, the Warren County Planning Board has determined that the proposed project will have no County-wide or Intercommunity impacts; and

WHEREAS, the ZBA has considered all relevant facts and circumstances contained in the Record before it, including those raised by the Applicant and members of the public.

NOW, THEREFORE, THE ZBA HEREBY MAKES THE FOLLOWING FINDINGS AND DETERMINATIONS:

1. This Application constitutes a Type II Action pursuant to the State Environmental Quality Review Act (SEQRA) and is therefore exempt from SEQRA Review.

2. This lot is a pre-existing lot pursuant to the provisions of Article 13 of the Town Zoning Law and is therefore exempt from any lot area and lot width requirements that would otherwise apply. However, structures to be constructed on the lot are subject to setback requirements from the shoreline, adjacent roadway and side property lines.

3. The ZBA takes note of the fact that the shoreline setback variance dimensions provided by the Applicant are based upon measurements as shown on the map. It is possible to produce slightly different dimensions by moving the line of measurement to different locations on the structure and shoreline. However, the ZBA does not wish to require the Applicant to revise its method of measurement as fully understands and appreciates the proposed location of the structure in the subject property.

4. Upon review of all relevant factors of the Area Variance “balancing test”, the ZBA hereby finds:

- a) Development of this lot for residential use cannot be achieved by any method feasible which would not require variances. Due to the property’s size, configuration and proximity to Brant Lake, there is no location on this property in which a structure can lawfully be located absent one or more variances. In addition, as they pertain to this lot, the shoreline and roadway setbacks create a tension. The more compliant a structure may become with one, the less compliant it will necessarily become with the other. There is no feasible alternative available to the Applicant that would not require any variances.
- b) This project will not produce any undesirable changes to the neighborhood or be a detriment to nearby properties. This neighborhood is comprised of properties that were created by the same subdivision as was the subject property. All lots in this subdivision are substandard in size. Other improved lots in this neighborhood are smaller than the subject property and some have homes that are closer to the lake than the structure being proposed. The proposed home will be in keeping with the neighborhood character and will generally “blend in”.

- c) Both variance requests are substantial. However, given the limitations of this site, the current proposed location of the structure strikes the proper balance between compliance with the roadway setback and compliance with the shoreline setbacks to the greatest extent possible.
- d) The proposed project will result in the removal of trees on the property and there may be some impacts related to installation of the proposed septic system. However, the Applicant is proposing to include design elements that will slow and thereby improve the rate of water runoff in comparison to the current rate on the undeveloped site. In addition, the overall site design (including "green roof") will have a net benefit and will not adversely affect the physical or environmental conditions of the neighborhood.
- e) The Applicant acquired the property subject to the current zoning restrictions. Therefore, any hardship is self-created. However, the Board takes note of the fact that this is a pre-existing non-conforming lot and any residential site development will necessarily require variances from the shoreline setback and roadway setback requirements.

5. Upon review of the five-factor balancing test, the ZBA finds that the benefit to the Applicant outweighs any detriment to the community. Regarding the final consideration, the Board hereby finds that the variances sought are the minimum necessary and adequate. For every inch, the proposed structure is moved further from the lake, it will necessarily be located one inch closer to the road and *vice versa*. Therefore, the fact that the structure could be moved to better conform to one of the setback requirements at the expense of the other is not the proper criteria to determine whether the variances are the minimum necessary and adequate to meet the Applicant's need. In this case, the proposed structure is a moderately sized single-story home. Its footprint will necessarily be larger than a two-story structure with the same amount of living space. However, the structure's footprint size is reasonable as is its location on the site.

6. Regarding the necessary septic variance to allow deviation from the required 100-foot distance between the septic system and any nearby wells, such a requirement is not found in the Town Zoning Law and is therefore not something that this Board has any jurisdiction over granting or denying. This Board has been advised by Counsel that such a variance falls within the jurisdiction of the Town Board as the Local Board of Health. Therefore; it is the Town Board that is authorized to consider potential impacts on well water quality and to make relevant determinations based on its findings.

DATED: January 25, 2022

AYES: Chair Cheryl Erickson, Vice-Chair Jim Dewar, Rich Nawrot, Ross Schoembs, Troy Scripture

NAYS: None

ABSENT: None

Reminders:

Correspondence: None

Public Comments: None

Board Comments: Reminder that the December 28, 2021 minutes will be reviewed at the February 16, 2022.

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

Adjourn: 8:50 PM

Next meeting date: February 22, 2022

Respectfully Submitted,
Secretary