

**HORICON TOWN BOARD
REGULAR MEETING OF THE BOARD & PUBLIC HEARING**

**JUNE 20, 2019
7:00 PM**

Present at meeting:	Matthew Simpson	Supervisor
	Kenneth Higgins	Councilperson
	Robert Olson	Councilperson
	Frank Hill	Councilperson
	Sylvia Smith	Councilperson
Krista Wood	Town Clerk	
Mark Schachner	Town Counsel	

Also: Pete Palmer, John Donovan, Tom Johansen, Assessor Christine Hayes, ZA Jim Steen, Gerard and Paulette Contois, Joyce Greenidge, Pat Farrell, Teri Schuerlein, Joe Gensheimer, Greg Teresi, Skip Ostrander, Brett Winchip, Zack Monroe, Jeff Meyer, Bill McGhie, Dave Iasevoli, and Bob Smith.

Supervisor Simpson called the meeting to order at 7:00 pm.

Local Board of Health:

A Motion was made by Councilperson Olson, seconded by Councilperson Higgins, to go into session as the Local Board of Health. The Board moved into session as Local Board of Health at 7:00 PM.

1 - Septic variance request for 1236 Palisades Rd/ Contois / tax map #39.9-1-1:

Zack Monroe, Winchip Engineering, explained their proposal to replace an existing wastewater disposal system that serves an existing two-bedroom residence. He said the existing septic sits only 9 feet from APA flagged wetlands. They are proposing to install a trench style system, instead of a seepage pit, so it is an enhancement over the existing system. The proposed system will be 10.3 feet from the wetlands. He said they are requesting an 89.7' variance from the proposed absorption field to APA wetland where 100' is required. Mr. Monroe said there is no other viable option without getting too close to the existing well or wetlands. The Board agreed the proposal was the best option.

RESOLUTION #78-2019

Councilperson Olson and Councilperson Higgins introduced Res. No. 78 and moved its adoption:

RESOLUTION TO SET PUBLIC HEARING

RESOLVED, that the Town Board of the Town of Horicon, acting in its capacity as the Local Board of Health, considers the application made by Winchip Engineering for a septic variance at 1236 Palisades Road in Brant Lake complete, and does hereby set a Public Hearing for Monday, July 15, 2019 at 7:00 PM at the Horicon Community Center.

Ayes: 5 (Olson, Higgins, Hill, Smith, Simpson) Nays: 0

2 - Septic variance request for 7888 State Rt 8/ Tunney / tax map #39.17-1-33:

Zack Monroe, Winchip Engineering, explained their proposal to install a replacement wastewater disposal system that will serve an existing three-bedroom residence. The proposed system is an absorption bed which is much better than the existing system. He said they are requesting an 81.8' variance from the proposed absorption bed to APA wetland where 100' is required. Mr. Monroe explained this is the only viable option due to the location of the owner's well and the surrounding wetlands.

RESOLUTION #79-2019

Councilperson Olson and Councilperson Higgins introduced Res. No. 79 and moved its adoption:

RESOLUTION TO SET PUBLIC HEARING

RESOLVED, that the Town Board of the Town of Horicon, acting in its capacity as the Local Board of Health, considers the application made by Winchip Engineering for a septic variance at 7888 State Route 8 in Brant Lake complete, and does hereby set a Public Hearing for Monday, July 15, 2019 at 7:00 PM at the Horicon Community Center.

Ayes: 5 (Olson, Higgins, Hill, Smith, Simpson) Nays: 0

3 - Re-convene Public Hearing - Septic Variance for State Rt. 8 / tax map #55.8-1-1 / Singer:

-Jeff Meyer, of Meyer, Fuller, and Stockwell, along with Bret Winchip, representing Mr. Singer, addressed the Board noting they have submitted verification of comments made at prior public hearings. Mr. Meyer once again affirmed the lot was created by Department of Health approval in 1955, ratified by the Horicon Planning Board in 1984, is a stand-alone building lot, has all the necessary approvals, and the location of the intermittent stream and Route 8 along with various setback requirements create practical difficulty and make it necessary for a variance. He said the alternatives suggested would not alleviate the need for a variance, in fact those alternatives would require more variances than the present option.

-Supervisor Simpson said he visited the site and spoke to Cedarwood Engineering on the proposal and he feels the proposed system is appropriate for the lot.

-Joe Gensheimer addressed the Board and said he feels the law is clear that this variance should not be granted. He said Mr. Singer owns the property across the way and he should put the system there like he did with another parcel he owns. He said there is no question where the water runs, and said he wished the Board had seen it today. He said it runs across Mr. Singer's and onto his property and by his well. Mr. Gensheimer said he spoke to twenty-two other engineers who, with the exception of two, would not go against the opinion of another professional engineer. He submitted the opinions of those two engineers today. He said Mr. Singer should put the septic across the road and he estimates it to cost \$6,000 to do this. Mr. Gensheimer said the proposed system should not be allowed and will have a negative impact on his well. He said this is simply not an acceptable proposal and he does not understand why the Board would approve this.

-Gregory Teresi, attorney for Mr. Gensheimer, addressed the Board and said he is grateful Counselor Schachner is here because he has seen regulations put in place by the Town of Queensbury related to this same issue. He said Counselor Schachner knows why there was so much concern over septic systems leaching into the lake and has said this was a problem on Lake George. Mr. Teresi said they have two engineers who say the septic proposal is a problem. He said granting this variance would set a precedent that would allow all others to do the same thing. He said the septic should either be put across the street or holding tanks should be used; anything else will negatively affect the lake. Mr. Teresi said the plans submitted by Winchip have not been stamped, he asked for proof the lot has been approved as a building lot, and said the alternative is a \$6,000 fix to put it across the road. He again said this would set a precedent. Mr. Teresi said the subsurface water is a concern with Mr. Gensheimer's well within 200 feet. He said someone could get sick, and urged the Board not to do anything that would cause the loss of the lake.

-ZA Jim Steen provided a copy of the subdivision lot, signed by the Health Department, to the Board for clarification on the status of the lot as a building lot.

-Mr. Gensheimer spoke up and said even though the Department of Health signed off in 1955 it does not mean the Town does not need to abide by current laws. He does not dispute it was an approved lot.

There being no further comments from the Public Hearing, motion was made by Councilperson Olson, seconded by Councilperson Higgins, to close the public hearing at 7:20 pm.

Discussion by the Board...

-Councilperson Olson asked Counselor Schachner if the granting of one variance would set a precedent that the Board must grant all future variances, or would each application need to stand on its own merit. Counselor Schachner replied that each application should be taken on its own merit. He said the Board

would not be required to grant a variance just because they had previously. However, with similar variance requests in the future, if the circumstances were identical the Board would need to identify specific differences if they were to deny the variance request. Counselor Schachner said in his opinion, Mr. Teresi's assertion that if the Board were to approve this particular variance then they would be legally bound to approve all future variances, along with his other arguments, is not a legally valid premise and he strongly disagrees with this assertion.

Furthermore, Counselor Schachner asked that the record reflect that as far as he is aware he has never made the statements attributed to him by Mr. Gensheimer's attorney. He may or may not have personal opinions, but he has never made those statements, and he would never express any opinion as to whether or not to approve a variance as this is up to the Board.

-Councilperson Olson then asked if the Board of Health can require a landowner to place a septic on another parcel the individual owns. Counselor Schachner said they cannot require them to do so, however, if the Board feels there is a viable alternative location then that could be a valid basis to deny a variance request.

-Councilperson Olson asked Bret Winchip what recommendations Cedarwood Engineering made and if he addressed them. Mr. Winchip said they recommended a swale of sorts be provided along the side of the property where the culvert comes through to make sure any water that comes through the culvert does not cross onto the other property. He said he visited the site after today's storm and the culvert was dry, therefore, the culvert in question does not drain the entire mountain as was previously mentioned last month. He said they also wanted them to raise the driveway, which they did, as this would act as a cutoff to any water directed towards the brook. He said these were basically the only comments Cedarwood had besides noting that they felt the placement of the system was correct. Mr. Winchip noted that he referenced Appendix 75A of the Wastewater Standards and used infiltrators to gain a 25% reduction in field size to pull it farther away from the stream. He said they did not go with an enhanced treatment unit because that unit would have required a variance to meet the setback because the Horicon Sanitary Code does not allow for that reduction. Mr. Winchip said this is the best solution to minimize the impact. He added that it is not a simple \$6,000 fix to put the system across the road. Mr. Winchip said in his opinion the \$6,000 figure is wholly incorrect and explained in detail how much more intrusive the project would be if they were to put it across the road and what additional variances would be needed. He said without an engineered system no one could know the cost.

-Councilperson Olson asked if Mr. Winchip had done a perc test himself on the site. Mr. Winchip said he did and referred Councilperson Olson to the perc test date noted on his revised plans.

-Counselor Schachner noted that at 4:30 today Mr. Teresi sent Supervisor Simpson correspondence from an engineer in Broadalbin which the Board just received tonight. (Additionally, a second letter was presented to the Board at this meeting). He said in order for the Board to do its due diligence, and to give Mr. Meyer the opportunity to review the correspondence and respond, the Board may want to hold off on this until next month. He also suggested the documents be forwarded to Cedarwood Engineering as their opinion would be valid in helping the Board to make the best decision possible. The Board agreed.

-Mr. Winchip asked Mr. Gensheimer if the other engineer had visited the site. Mr. Gensheimer said yes.

-Mr. Winchip said one of the comments by the other engineer was that his plans were not sealed. Mr. Winchip explained that he does not seal plans until they have been approved in order to eliminate the chance of a project being completed without proper approval.

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-ZA Steen asked, for clarification, if the two engineers Mr. Gensheimer spoke to had Winchip's revised plans. Mr. Gensheimer said they did.

-The Board will review the documents submitted tonight, as well as have Cedarwood review them, and will address at the July 15th meeting.

A Motion was made by Councilperson Olson, seconded by Councilperson Hill, to go back into regular session. The Board moved back into **regular session** at 7:35 PM.

Approval of Minutes: Minutes of May 16, 2019 were approved by Motion of Councilperson Smith and Councilperson Higgins.

Ayes: 5 (Smith, Higgins, Hill, Olson, Simpson) Nays: 0

Approval of June 20, 2019 Vouchers and Abstracts:

RESOLUTION #80-2019

Councilperson Higgins and Councilperson Hill introduced Res. No. 80 and moved its adoption:

RESOLUTION TO AUTHORIZE PAYMENT OF JUNE ABSTRACTS

RESOLVED, that the Town Board does hereby authorize the payment of the June 20, 2019 Vouchers and Abstracts as follows:

General Abstract	6	\$ 53,249.14
Highway Abstract	6	\$ 43,478.17

Ayes: 5 (Higgins, Hill, Olson, Smith, Simpson) Nays: 0

Correspondence to the Board...

- ORPS RE: Final State Equalization Rate for 2019 Assessment Roll
- Tim Meade RE: Letter of intent to retire from Highway Department
- Jason Willette RE: Letter of resignation from Horicon Board of Ethics effective June 10th-
- Rucinski Hall RE: Heintzelman Library building condition report

Resolutions...

RESOLUTION #81-2019

Councilperson Smith and Councilperson Olson introduced Res. No. 81 and moved its adoption:

RESOLUTION TO CHANGE DATE OF JULY 2019 TOWN BOARD MEETING

RESOLVED, that the Horicon Town Board does hereby change the date of the July 2019 Town Board meeting from Thursday, July 18 to **Monday, July 15, 2019** at 7:00PM.

Ayes: 5 (Smith, Olson, Hill, Higgins, Simpson) Nays: 0

RESOLUTION #82-2019

Councilperson Hill and Councilperson Smith introduced Res. No. 82 and moved its adoption:

RESOLUTION TO HIRE LIFEGUARDS FOR SUMMER

RESOLVED, that the Town Board does hereby hire Tim O'Neil as lifeguard for the Adirondack beach for the 2019 summer season at a rate of \$13.80 per hour for a thirty-hour week. The Chester Horicon Youth Commission will schedule the lifeguards for the Brant Lake beach on a rotating schedule at a rate of \$13.80 per hour. The beach will be open 11am - 5pm Monday through Thursday and 11am-6pm Friday through Sunday.

Ayes: 5 (Hill, Smith, Higgins, Olson, Simpson) Nays: 0

RESOLUTION #83-2019

Councilperson Smith and Councilperson Higgins introduced Res. No. 83 and moved its adoption:

RESOLUTION TO AUTHORIZE PAYMENT TO MINDY CONWAY

RESOLVED, that the Town Board of the Town of Horicon does hereby authorize payment to Mindy Conway in the amount of \$500.00 for her work in scheduling the lifeguards for the Brant Lake beach. Payment is to come from Youth-Contractual (A7310.4).

Ayes: 5 (Smith, Higgins, Olson, Hill, Simpson) Nays: 0

RESOLUTION #84-2019

Councilperson Olson and Councilperson Hill introduced Res. No. 84 and moved its adoption:

RESOLUTION TO AUTHORIZE INTEREST PAYMENT ON HIGHWAY TRUCK BAN

RESOLVED, that the Town Board of the Town of Horicon does hereby authorize the payment of the balance of interest on the 2019 Western Star BAN in the amount of \$198.43.

Ayes: 5 (Olson, Hill, Higgins, Smith, Simpson) Nays: 0

RESOLUTION #85-2019

Councilperson Higgins and Councilperson Smith introduced Res. No. 85 and moved its adoption:

RESOLUTION TO ACCEPT RESIGNATION OF TOWN JUSTICE

RESOLVED, that the Town Board of the Town of Horicon does hereby regretfully accept the resignation on of Kevin Kilcullen from the position of Town Justice effective August 31, 2019.

Ayes: 5 (Higgins, Smith, Olson, Hill, Simpson) Nays: 0

Committee Reports...

-*Councilperson Olson* said he and Councilperson Smith interviewed two candidates for the open ZBA and PB alternate seats and recommend David Iasevoli for Planning Board Alternate and Brian Logan for ZBA Alternate.

RESOLUTION #86-2019

Councilperson Olson and Councilperson Smith introduced Res. No. 86 and moved its adoption:

RESOLUTION TO APPOINT ZBA AND PLANNING BOARD 2ND ALTERNATES

RESOLVED, that the Town Board does hereby appoint David Iasevoli to the vacant seat of Planning Board Alternate #2 to complete that term which will expire on December 31, 2022, and be it further RESOLVED, that the Board does hereby appoint Brian Logan to the vacant seat of Zoning Board of Appeals Alternate #2 to complete that term which will expire on December 31, 2019.

Ayes: 5 (Olson, Smith, Higgins, Hill, Simpson) Nays: 0

-*Councilperson Smith* updated the Board on the following:

-The Board will need to interview for a Board of Ethics Member as Jason Willette has resigned. She said the current alternate has the option to move up but cannot at this time due to personal reasons. She said they have two candidates they will be interviewing.

-The Boat Steward training took place on May 18th and she and Rich Nawrot also attended; the harassment training was included in that training as well. The Stewards began work May 25th.

-The First Wilderness Plan workshop meeting was held on May 23rd and thirty people attended. There were two working groups along with the Warren County group. The Advisory Committee will meet Tuesday, July 30th at 7:00pm for follow up, and there will be another meeting, open to the public, on August 27th @ 7:00pm.

-The information and photographs have been submitted for the Southern Adirondack Guide. She noted Horicon will be featured on the front cover and the photo was provided by Carl Heilman.

-She and Supervisor Simpson submitted for a \$1,000.00 grant from the Community Fund for Gore Mountain Region to do repair work on headstones.

-The Adirondack Playground project is almost complete, and the final report will be submitted soon. She thanked the Highway Department for the work they did on it.

-The preservation grant from NYS has been completed and the deadline was met; the information is in the Board packets.

-The flowers were in by June 2nd and she thanked the volunteers Rich and Joanne Nawrot, Bob Smith, Barb LaFond, Don and Bonnie Rosbozom, Rob Wallace, Kevin Kilcullen, and Teri Schuerlein for their help planting and maintaining the flowers.

-They are still working on getting the three trees down in the cemetery. They will make a decision at the July meeting; however, they will not be taken down before September.

-The beaches will be open July 1st, and swim lessons will be offered again this year on Monday, Tuesday, and Wednesday from 5pm to 6pm.

-*Councilperson Hill* said the Horicon Community Center sign fell off the building and it is currently being repaired. He said they are also waiting on an estimate from Daryll Clute for repair work on the wall at the Highway Garage.

-*Supervisor Simpson* updated the Board on the following:

-The Constitutional amendment for the Land Bank, that was proposed almost two years ago, was passed in the Assembly and Senate yesterday and is now just waiting for the Governor's signature. He said this means the Middleton Bridge project can finally go forward. He thanked Senator Little and Assemblyman Stec who worked tirelessly for this.

-He noted copies of the architect's report are in the packets for the Heintzelman Library. The Town did receive a grant through the Preservation League of NYS for \$5,200.00.

-Recommendations were made to the Governor for the four open APA seats, and the Governor submitted these individuals to the Senate for appointment. Supervisor Simpson said those being recommended are Brian McDonnell (Franklin County), Andrea Hogan (Town of Johnsburg), Mark Hall (Town of Fine), and retired Deputy Commissioner Ken Lynch. He said the Senate still needs to vote on this.

New Business...

First Trail for Horicon Hikes: Dan Smith updated the Board on the first 'Horicon Hikes' trail that has just been completed. He said the Fox Hill Trail, located on the hill behind the Community Center, is just under two miles round trip, reaches about 500 feet in elevation, has three overlooks, and is considered to be moderately difficult. Mr. Smith said they still have some fine tuning to do. He also said there is unfortunately some ATV use on the trail which he hopes the Board will consider putting a stop to. The Board thanked Mr. Smith.

Old Business...

Fountain Repair: Supervisor Simpson said he will have a firm quote from Roger Houck at the July meeting. He said Roger thinks he should be able to make the repair in August.

1881 Union Church: Supervisor Simpson said the contract for a drilled well at the 1881 Church has been signed with Parker Water Wells. He also noted there was a recent problem with carpenter ants at the Church and said the building should be included in the Orkin maintenance program.

Parking Lot paving: Supervisor Simpson said he asked the County for a quote to pave the parking lot at the Community Center. He said the County quoted the job at \$30,000.00, Peckham's quoted it at \$38,000.00, and the alternative plan which involves completely re-doing the parking lot would be approximately \$400,000.00. Supervisor Simpson said the County expects the work to take two to two and a half days, and he does not have a date yet, but it will be done during this year's paving season. He said the Board will also

need to make a plan for the sidewalks and striping which are not included in the quote. This is not included in the Budget.

RESOLUTION #87-2019

Councilperson Olson and Councilperson Higgins introduced Res. No. 87 and moved its adoption:

RESOLUTION TO AUTHORIZE BUDGET AMENDMENT FOR PARKING LOT PAVING

RESOLVED, that the Town Board of the Town of Horicon does hereby authorize the paving of the Horicon Community Center parking lot, under the current contract with Warren County, at a cost not to exceed \$30,000.00, and be it further

RESOLVED, that the Town Board authorizes the Bookkeeper to make the following Budget Amendment in the General Fund to reduce the unexpended fund balance to cover the paving project:

Debit	A599.....Appropriated Fund Balance.....	\$ 30,000.00
Credit	A1620.4.....Buildings-Contractual.....	\$ 30,000.00

Ayes: 5 (Olson, Higgins, Smith, Hill, Simpson) Nays: 0

Compactor: Supervisor Simpson said the County Engineer looked at the compactor at the Landfill. He said Jim Maddison does the maintenance work on most of the compactors in Warren County, and he gave a quote of \$3,375.00 for the work that needs to be done. He added the replacement cost for a compactor would be approximately \$90,000.00.

RESOLUTION #88-2019

Councilperson Smith and Councilperson Higgins introduced Res. No. 88 and moved its adoption:

RESOLUTION TO AUTHORIZE COMPACTOR REPAIR

RESOLVED, that the Town Board of the Town of Horicon does hereby authorize Maddison's Contracting and Repair to perform the necessary repair work on the compactor at the Landfill at the quoted price of \$3,375.00; cost of repairs will come from A1620.4 Buildings-Contractual.

Ayes: 5 (Smith, Higgins, Olson, Hill, Simpson) Nays: 0

Privilege of the Floor...

-Teri Schuerlein said preparations are almost complete for Food Truck Fridays on the Pond starting Friday, June 28th. She asked for volunteers to help out some or all of the Fridays as the group putting this together is very, very small.

Adjourn... There being no further business to attend to the meeting was adjourned at 8:15 PM by MOTION of Councilperson Olson and Councilperson Hill, all in favor.

Respectfully Submitted:

Town Clerk