

**Town of Horicon
Zoning Board of Appeals**

**July 23, 2019
Minutes**

Present at Meeting:

Scott Olson, Vice-Chairperson
James Dewar
Rich Nawrot
Ross Schoembs
Troy Scripture, Alternate #1

Also Present: Town Legal Counsel Brian Reichenbach, Raymond Necci, Michael Bagley, Don Sweetser, Michael Black, Les Crimmins, John and Donna Ogden, Bill McGhie, Zach Monroe, Bob Olson and Jim Steen, Zoning Administrator

Chairperson Cheryl Erickson was absent from the meeting and Vice-Chairperson Scott Olson chaired the meeting tonight.

Pledge

Vice-Chairperson Scott Olson appointed Troy Scripture, Alternate # 1 to take Scott Olson's place due to the absence of Chairperson Cheryl Erickson at tonight's meeting.

Review of Minutes: Rich Nawrot made a motion to accept the June 18, 2019 minutes as written. Second by Ross Schoembs. **ALL AYES.**

NEW BUSINESS: **File 2019-07 AV**
 Tax Map # 36.12-1-66
 Blue Sky Estates Association, Inc.
 East Shore Drive
 Adirondack, NY 12808

Requesting an Area Variance from **Zoning Code 6.10** for a shoreline setback in order to construct a 3' x 120' stone retaining wall along upper beach to prevent erosion to sit at 0' where 50' is required.

Donald Sweetser, an officer of the corporation is representing Blue Sky Estates Association and he spoke about the proposed project. He stated that there was serious erosion this year as the pictures presented show the amount of damage. Several years ago they put in a drainage trench along this embankment to prevent water eroding and running silt into the lake. They have worked with the DEC in the past to mitigate sand getting into lake by putting in pea stone gravel and coconut barriers. We had this retaining wall area grassed and used a nylon net with coconut fibers in it to help grow grass to try and do it naturally, obviously it failed and will continue to fail. They have cleaned it up and have silt fence in place to try and mitigate further erosion into the lake. They found the only solution to come up with is to put stone wall with fabric and drainage behind it and will plant ivy on top to come over the wall.

Vice-Chairperson Scott Olson asked if they have had any engineering assistance with this project.

Don Sweetser responded no, but they have had DEC and Warren County Conservation people have been there in the past to make suggestions for mitigation. However, that natural solution did not work and failed. Three or four years ago they put the natural stone wall in down by the lake to prevent erosion. They feel that this is a viable solution since the natural grassed area with nylon net with coconut fibers failed.

Rich Nawrot asked if there is a stone wall in place there now.

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Don Sweetser responded no there is a retaining wall by the lake about 2' high on the lower beach. The proposed retaining wall is on the west side of the raised area.

Jim Dewar asked if the plan for the stone wall is to come up to the grass level and will the flagpole remain.

Don Sweetser responded that yes it will come up to the existing grade which goes from three feet at the lower level up to 0'. And yes the flagpole in the upper grass section will remain.

Jim Dewar asked if there are any spots where there will be steps to get down to the beach.

Don Sweetser stated yes it shows on the site plan where the steps will be located and he pointed it out on the site map for the Board members.

Rich Nawrot asked if the green line on the map is the mean high water line.

Zoning Administrator Jim Steen responded that the green line is the 810' mark and the pink line is 812' so the mean high water mark is between these two lines at 811'.

Vice-Chairperson Scott Olson asked if the erosion is caused from the water rising from the lake or from rain coming down the slope.

Don Sweetser responded that the erosion is from the high water in the lake and it is staying so high for a long period of time and they have had and from wave action from the wind as well. Anything running down the slope runs through a drainage ditch wrapped in fabric with pea stone on top that filters the sand and the water is carried down to the lake. That is not causing the erosion just the high water from the lake.

Troy Scripture asked if this is the first year it eroded like this.

Don Sweester responded that yes it is and they put in the grassed area with the nylon net with coconut fibers about three years ago.

Jim Dewar asked if the wall will be loose rocks or stones.

Don Sweetser responded there will be larger boulders about 2' – 3' high and then rocks getting smaller as they go up with fabric behind it with drainage stone as well. It will be very similar to wall at water line now.

Being no further questions Jim Dewar made a motion to deem the application complete and set a Public Hearing for August 27, 2019. Second by Ross Schoembs. **ALL AYES.**

NEW BUSINESS: **File 2019-08 AV**
 Tax Map # 106-1-9
 Adirondack Mt. Land LLC – Michael Black
 Hayesburg Road
 Brant Lake, NY 12815

Requesting an Area Variance from **Zoning Code 6.10** for lot size of **Lot 1: 22.63** acres and **Lot 2: 30.19** acres where 42.6 acres is required.

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Adirondack Mount Land LLC owned by Michael Black spoke about his proposed variance for undersized lots. He owns about 53 acres and wants to divide it in two pieces. It is currently in three different zones. The front of the property is in the R 2.5 acre zone, the middle is in the LC-10 acre zone and the rear of the property is in the LC 42.6 acre zone. Because the 42.6 acre zone cuts the property the zoning ordinance states that it must use the more restrictive density for that zone. Although the homes to be built are in the R 2.5 acre zone the density must be 42.6 acres thus the request for the undersized lot sizes.

Vice-Chairperson Scott Olson stated he could do it differently by making one of the lots larger but then the two lots created would be less than desirable. One tiny lot and a large lot.

Michael Black responded that is correct that is why the proposal is for a 22.63 acre lot and a 30.19 acre lot.

Vice-Chairperson Scott Olson asked what's the purpose of Subdivision?

Michael Black responded to sell individual homes.

Zoning Administrator Jim Steen stated that the Town has three zones in that area; however, the APA has two zones and their regulation for the rural use zone is 8.5 acres. The APA has no problem with the density.

Michael Black stated he received a non-jurisdictional letter from the APA stating no permit is required from the APA for this proposal.

Rich Nawrot asked if there are any wetlands on the property.

Michael Black responded there are no wetlands on the property.

Being no further questions Jim Dewar made a motion to deem the application complete and schedule a Public Hearing for August 27, 2019. Second by Ross Schoembs. **ALL AYES.**

PUBLIC HEARING:

**File 2019-06 AV
Tax Map 39.17-1-14
John and Donna Ogden
7829 State Route 8
Brant Lake, NY 12815**

Requesting an Area Variance from **Zoning Code 6.10** for a shoreline setback in order to tear down an existing home and construct a new home to sit 15.3' from the shoreline where 50' is required, 19.5' from the front where 60' is required and 12.6' from the side where 15' is required.

Vice-Chairperson Scott Olson opened the Public Hearing for John and Donna Ogden.

John Ogden refreshed the Board members memory regarding his proposed variance for setbacks. He stated they want to reconstruct a year round single family residence on the same footprint of their current camp. The current deck will be converted to living space which will require a smaller variance request. A big part of the reason we are here is due to the height increase on the new structure in order to comply with building code requirements to raise the home two feet above the flood elevation.

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Zoning Administrator Jim Steen stated that the deck will be converted into living space which will increase the height and bulk so it is not only the height increase which requires a variance.

John Ogden stated that the actual foot print of the house shrinks by about 1' in living space and the actual living space will be moving back away from the lake a little bit.

Rich Nawrot stated that you will be basically building on the same footprint and the deck will be enclosed as part of the home and will move a little further away from the lake.

John Ogden responded yes that is correct.

The neighbor to the north, Les Crimmins stated that he was there to say that he has no problem with the requested proposal for the variances.

Rich Nawrot asked if the side yard setbacks on the existing structure are the same.

John Ogden stated that the side yard setbacks increases slightly, by about 6".

Jim Dewar asked about the height difference between the old structure and the new structure.

John Ogden stated that the significance of the increase in the height of the structure has to do with the elevation of the flood zone requirements to bring the floor grade up to meet code.

Zoning Administrator Jim Steen stated that the finished floor has to be 2' above the 100 year flood zone. The increase in height will be about 4.3' over the existing structure.

John Ogden stated that the ceiling height in the camp are only 7' high and the new construction will have conventional 8' ceilings.

Being no further questions or comments Vice-Chairperson Scott Olson closed the Public Hearing and stated that the Warren County Planning Review was received and they find that the project will not create any significant municipal or county-wide impacts.

Vice-Chairperson Scott Olson stated that this is a Type II SEQRA action and no review is necessary.

The Board reviewed the Area Variance criteria:

Vice-Chairperson Scott Olson 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.

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The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicant because they are replacing the structure on the existing footprint and making it a little smaller and a further from the sideline and further from the lake. This is the best alternative for dealing with their issue.
2. There will not be an undesirable change in the neighborhood character or undesirable change to the nearby properties. This will be an improvement to the neighborhood and the adjoining neighbor has no problems with the proposed project.
3. The request is substantial; however, the existing home needs renovations. Based on the fact that the existing structure is already close to the lake so the new proposal makes it slightly better and will move a little away from the lake this will be an improvement.
4. There will be no adverse physical environmental effects on the property or to the neighboring properties. Normal construction standard practice is to place a silt fence during construction. There will be no more impact from the home being built; however, during the construction the silt fencing will be placed to prevent runoff to the lake. There is vegetation and grass located there to prevent runoff as well. The new roofline of the new home goes in the same direction as the current home so that will not cause any problems.
5. The proposed project is self-created but not fatal to the application. The existing home is seasonal and it's reasonable to replace with a new year round home. It is modest in size and on the same footprint and a little further away from lake. The septic system is on the other side of the road. The system will be replaced and will not need any variances and if damaged during construction it will be replaced. They will be putting in a new leach field. All precautions will be taken during construction so as not to damage the existing tank and pump.
6. This is the minimum variance necessary because it is on the footprint of the existing structure.

Being no further discussion Jim Dewar made a motion to approve the requested Area Variance from **Zoning Code 6.10** for a shoreline setback in order to tear down and existing home and construct a new home to sit 15.3' from the shoreline where 50' is required, 19.5' from the front where 60' is required and 12.6' from the side where 15' is required. With the following conditions:

1. The silt fence will be installed and maintained during the entire construction.
2. The septic system will be pumped empty and remain empty during construction.

Second by Ross Schoembs. **ALL AYES.**

Reminder: none

Correspondence: updated Planning and Zoning Board member information provided to Board members

Public Comments: none

Board Comments: none

Adjourn: 7:50 PM

Next meeting date: August 27, 2019

Respectfully Submitted,
Terri Katsch, Secretary