

**Town of Horicon
Zoning Board of Appeals**

**December 16, 2014
Minutes**

Present at Meeting: Gary Frenz, Chairperson
Cheryl Erickson, Vice Chair
Pat Farrell, Alternate #1
Scott Olson, Alternate #2

Also Present: Jim Steen, Zoning Administrator
Mike Hill, Esq., Town Attorney

Bob Olson, Town Board Member, Bill McGhie, Planning Board member, Bernie Hill, Paul Cleveland, Troy Soka, Jim Beadnell, Ben Sgambati, Fred Tezanos,

Agenda Items: **File # 2014-10 AV - Pilgrim Camp Inc. - Tax Map # 39.-1-16.1**
File # 2014-08AV – Brian Venn -Tax Map # 72.13-2-50
File # 2014-07AV - Sgambati, Soka, Ridin-Hy, Beadnell - Tax Map # 122.12-1-24

Pledge

Chairperson Gary Frenz called the meeting to order.

Gary Frenz announced that Pat Farrell and Scott Olson would be seated as voting members tonight in the absence of Carl Heilman and Thad Smith.

Approval of Minutes: Chairperson, Gary Frenz announced review of the October 28, 2014 minutes and that Cheryl Erickson, Pat Farrell and Scott Olson will be the only members voting on the review as they were present at the November 25, 2014 meeting. Cheryl Erickson made a motion to accept the October 28, 2014 minutes as written, 2nd by Scott Olson. ALL AYES. Chairperson, Gary Frenz announced the review of the November 25, 2014 minutes. Cheryl Erickson, made a motion to accept the November 25, 2014 minutes as noted with corrections, 2nd by Pat Farrell. All AYES.

NEW BUSINESS: **File # 2014-10 AV**
Tax Map # 39.-1-16.1
Pilgrim Camp Inc.
1542 Palisades Road
Area Variance for Roadway setback of 36' where 50' is allowed to expand a pre-existing non-conforming cabin with 203 square feet addition.

Attorney, Mike Hill clarified that the proposed setback is from Palisades Road. Jim Steen, Zoning Administrator answered yes.

Paul Cleveland spoke on behalf of Pilgrim Camp owner, John Munsinger for a proposed small addition to a pre-existing, non-conforming structure with an expansion of 203 square feet to enlarge the existing bathrooms.

Pat Farrell asked what type of baths exist now. Currently they are small full baths about six (6) feet by five (5) feet.

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Cheryl Erickson stated that the variance request is on the addition that will run perpendicular to Palisades Road. Jim Steen, Zoning Administrator showed the Board Members a map of the proposed addition's location which will be closer to the Palisades Road than the pre-existing non-conforming structure is currently.

Scott Olson asked whether the addition is encroaching or the pre-existing non-conforming structure is encroaching on the roadway setback. Jim Steen, Zoning Administrator responded that the pre-existing non-conforming structure sits further back than the proposed addition and discussion ensued between the Board Members that the variance will be on the proposed addition that will sit closer to Palisades Road; however, confirming that the whole structure will be brought into compliance with the proposed variance request.

Cheryl Erickson made a motion to deem the application complete and schedule a public hearing for January 27, 2014, 2nd by Scott Olson. ALL AYES.

**PUBLIC HEARING: File # 2014-08AV
Tax Map # 72.13-2-50
Brian Venn
7074 State Route 8**

Area Variance for a proposed dock length of 64' where 40' is allowed and a proposed dock surface area of 256 square feet where 75 square feet is allowed.

Bernie Hill spoke on behalf of the owner, Brian Venn for an area variance request for a proposed dock length of 64' where 40' is allowed and a proposed dock surface area of 256 square feet where 75 square feet is allowed. Bernie stated the requested length variance is required so the boat when docked does not hit the bottom of the lake.

Gary Frenz asked how the current boat is powered and Bernie Hill stated that it is powered by a jet motor and this type of boat will draw up sand if it hits the bottom of the lake.

Cheryl Erickson asked Bernie Hill about the surface area of the requested variance and existing standard dock dimensions. Jim Steen, Zoning Administrator explained the calculation process for dock surface areas and dock lengths are based on the shore frontage width to a maximum of four hundred (400) feet.

Lengthy discussion ensued between the Board Members on other non-conforming docks in the area.

Gary Frenz, Chairperson introduced the e-mail received from Mr. Jeffrey Zachmann, an adjoining owner to the Brian Venn property. Mr. Zachmann's concerns are two-fold, first being the proposed dock length and the assertion that a three (3) foot depth is necessary for docking of the boat.

Cheryl Erickson asked Bernie Hill what the depth of the water is at sixty-four (64) foot length. Bernie Hill stated three (3) feet. Discussion ensued between Board Members regarding silt movements effect on the depth of lake water and stated the level of lake is not constant.

Cheryl Erickson made a motion to close the Public Hearing, 2nd by Pat Farrell.
ALL AYES.

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UNFINISHED BUSINESS: File # 2014-08AV

Tax Map # 72.13-2-50

Brian Venn

7074 State Route 8

Area Variance for a proposed dock length of 64' where 40' is allowed and a proposed dock surface area of 256 square feet where 75 square feet is allowed.

The Board reviewed the Area Variance criteria:

The ZBA further finds that variances from Section **11.60 Docks** of the Zoning Code regulations is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because:

- 1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties as there are similar docks in the neighborhood and/or larger sized docks. The neighboring property has a dock that is 64 feet in length. There are other non-conforming docks in the area.
- 2) The benefits sought by applicant could not be achieved by any other means as the applicant's proposed design allows for the necessary three (3) foot depth of water to dock the boat safely. This is the best placement of the proposed dock and cannot be placed anywhere else due to the shallowness of the lake at the shoreline.
- 3) The requested variance is not substantial, compared to other docks in the area. The neighbors' docks are of the same size and/or larger than this proposed variance request.
- 4) There is no adverse physical or environmental effects as the bottom of the lake in this area is sandy with no vegetative growth.
- 5) The alleged difficulty was not self-created and is a result of the depth of the lake which is not constant and run off from Grassville Road which causes a changing shoreline and affects water depth.
- 6) This is the minimum variance necessary.

Conditions: None

Noting that this project is exempt from SEQRA.

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Cheryl Erickson, Vice-Chair made a motion to approve the requested variance, as based on the Boards discussions and reasons stated during the course of the discussions, for a 181 square foot variance. 2nd by Pat Farrell. ALL AYES.

Cheryl Erickson, Vice-Chair made a motion to approve the requested variance, as based on the Boards discussions and reasons stated during the course of the discussions, for a sixty-four (64) foot length dock where forty (40) feet is allowed. 2nd by Scott Olson. ALL AYES.

PUBLIC HEARING: File # 2014-07 AV

Tax Map 122.12-1-24

**Sgambati, Soka, Ridin-Hy, Beadnell
North Sherman Lake Road**

Area Variances for a proposed dock length of 88.7' where 40' is allowed and a proposed dock surface area of 570 square feet where 300 square feet is allowed.

Troy Soka went over the highlights of the proposed area variances requested. Troy Soka stated that the water is quite shallow in the area of the beach front lot and additionally is very rocky in the center of the beach front lot. These two conditions pose a hardship for docking boats safely. Troy Soka stated a variety of alternative configurations were looked at prior to arriving at the proposed dock shape and size. Other alternatives were eliminated because they were longer than one-hundred (100) feet or they encroached on the twenty (20) percent sideline setback.

Lengthy discussion ensued to reiterate to the applicants that the requested area variances are to allow for the construction of a boat dock at the beach lot jointly owned by the owners of the six (6) residential lots on the north side of N. Sherman Lake Rd. The beach lot is currently being utilized by the owners of two (2) of the six (6) lots. The owners of all six lots have joined together in applying for these variances and all have signed the variance application forms. All of the lot owners recognize that possible future development of the remaining four (4) undeveloped residential lots could result in the owner(s) of those presently undeveloped lots desiring to add docks and/or dock spaces at the beach lot. The lot owners understand that neither the Zoning Board of Appeals or the Planning Board is obligated in any way to issue any further approvals of any type to allow for expansion of any dock constructed as a result of the variances granted for this application (2014-07AV) or for the construction of any new dock(s) or additional boat berths or docking spaces.

Discussion ensued regarding the number and types of boats to be docked. Jim Steen, Zoning Administrator stated that if more than four (4) boats are docked it then becomes a multi-access dock and must go before the Planning Board for approval. The Board members want the applicant/owners to be clear that if more than four (4) boats are docked that would trigger a conditional use multi-access dock request.

Mr. Fred Tezanos, adjoining property owner expressed his objections to the proposed variance requests because it will have an impact on his view of the lake.

Lengthy discussion ensued between the applicant/owners, Mr. Tezanos and the Board members regarding sideline setbacks, the rocks in the area and the safety issues.

Cheryl Erickson made a motion to close the Public Hearing on file # 2014-07AV. 2nd by Scott Olson. ALL AYES.

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UNFINISHED BUSINESS: File # 2014-07 AV

Tax Map 122.12-1-24

Sgambati, Soka, Ridin-Hy, Beadnell

North Sherman Lake Road

Area Variances for a proposed dock length of 88.7' where 40' is allowed and a proposed dock surface area of 570 square feet where 300 square feet is allowed.

Review of Criteria:

- 1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties as the requests are consistent with the neighborhood; however there will be an effect on adjoining owner, Mr. Tezano's view of the lake.
- 2) The benefits sought by applicant could not be achieved by any other means as the applicant's proposed design is the best solution for safe boating with the least impact on the neighbors and other boaters. The proposed design allows for the necessary three (3) foot depth of water to dock the boat safely. This is the best placement of the proposed dock because of the shallowness of the lake at the shoreline and the numerous rocks in the shallow water.
- 3) The requested variances are substantial; however, not when compared to other docks in the area. The neighbors' docks are of the same size and/or larger than the proposed variances requested.
- 4) There is no adverse physical or environmental effects as there are no wetlands involved, it is a very rocky and shallow portion of the lake and the dock is removable.
- 5) The alleged difficulty was not self-created and is a result of the shallow and rocky area at the shoreline.
- 6) These are the minimum variances necessary.

Conditions:

1. Within sixty (60) days of the Board's vote approving these variances, all joint owners of the beach lot must prepare, sign and file in the Warren County Clerk's Office an agreement that will address and establish the number of owners of the beach lot that the owners agree they would need to sign any future application for any variances, conditional use permit and /or any other permits or approvals needed for any future boat docks(s) or any additions or modifications to any boat dock(s) at the beach lot. The agreement may also address any other aspects of the joint ownership and/or use of the beach lot. The agreement must be binding on the current owners as well as all future owners. If the agreement required by this condition is not timely signed and filed, the variances approved for application 2014-07AV will automatically expire without any further action by the Zoning Board of Appeals and will be null and void and of no effect.

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2. Any additions to and or modifications of the beach lot dock resulting from these variances that would allow for additional docking spaces will require Town approval of the necessary variance(s) and/or conditional use permit application.
3. Approval by the Town of any future dock variances and/or conditional use approval allowing for additional dock spaces may supersede these variances.
4. Denial of any future dock variance application and/or conditional use application will not have any effect on these variances.

Noting that this project is exempt from SEQRA.

Cheryl Erickson made a motion to approve the requested area variance for dock length based on previous discussions and subject to the conditions as listed above. 2nd by Scott Olson. ALL AYES.

Cheryl Erickson mad a motion to approve the requested area variance for dock surface area based on discussions and subject to the conditions as listed above. 2nd by Scott Olson. ALL AYES.

COMMUNICATIONS:

Gary Frenz, Chairperson, made a motion to appoint Cheryl Erickson, Vice-Chair for the ZBA for calendar year 2015. 2nd by Pat Farrell. ALL AYES.

Gary Frenz asked who will be attending the Saratoga County Planning and Zoning Conference on January 28, 2015.

Zoning Board of Appeals 2015 meeting schedule was given to all ZBA members.

PUBLIC COMMENTS: NONE

BOARD COMMENTS: Chairman, Gary Frenz asked the Secretary to send information about the Saratoga County Planning and Zoning Conference to the absent members of the Board.

Being no further comments or questions, Gary Frenz, Chairperson made a motion to adjourn the meeting at 10:30 PM, 2nd by Scott Olson. All AYES

NEXT MEETING: January 27, 2015

Respectfully Submitted,
Terri Katsch
Secretary