

**Town of Horicon
Zoning Board of Appeals**

**February 23, 2016
Minutes**

Present at Meeting:

Thad Smith, Chairperson
Cheryl Erickson Vice-Chairperson
Pat Farrell
Charles Lewis
Scott Olson, Alternate #1
James Dewar, Alternate #2

Also Present: Bob Olson, Town Board member, Mike Hill, Steve Alheim, Planning Board Chairperson Bill McGhie, Bill and Sue Bidwell, Teri Schuerlein, Frank Hill and Jim Steen, Zoning Administrator.

Agenda Items:

**File # 2015-17 AV Tax Map # 36.16-1-1
File # 2016-01 AV Tax Map # 55.-1-11
File # 2016-02 AV Tax Map # 55.-2-6 (aka 55.-2-6.1)**

Pledge

Chairperson Thad Smith announced that in the absence of Gary Frenz, Scott Olson Alternate # 1, would be seated as voting member tonight.

Chairperson Thad Smith called the meeting to order at 7:00 p.m.

Review of Minutes: Vice-Chairperson Cheryl Erickson made a motion to approve the January 26, 2016 minutes as written. Second by Pat Farrell. **ALL AYES.**

PUBLIC HEARING:

**File 2015-17AV
Tax Map # 36.16-1-1**
John Fenaroli and Susan Durgin
13 Lakeview Drive
Adirondack, NY 12808

Area Variance from Zoning Code 8.10 for Roadway setback to build 6' X 6' roof over existing steps on a non-conforming structure to sit 36' from the road where 50' is required and for the existing structure to sit forty-two (42) feet from the road and an area variance from Zoning Code 15.10 to alter a pre-existing non-conforming structure to add an addition to the rear of the house and add a dormer to the second story.

Chairperson Thad Smith opened the Public Hearing for **File 2015-17 AV Tax Map # 36.16-1-1.**

Mike Hill spoke on behalf of the homeowners John Fenaroli and Susan Durgin. This proposed addition is back before the Board because it was re-noticed for the existing structure to sit forty-two (42) feet from the road. The location of the original structure seems to violate the setbacks.

Zoning Administrator Jim Steen stated he found in the files the original Certificate of Occupancy and the Zoning Compliance Certificate from when the structure was first built. Town Attorney Leah Everhart suggested the Board ask the applicant to request all variances being sought make the current home lawful and make any additions lawful if granted. Mike Hill stated this is the only structure on the property and where the building sits now it requires variances. Zoning Administrator Jim Steen asked if it is possible that the road was not paved when original structure was built. Chairman Thad Smith indicated that the road was widened in 1994.

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Zoning Administrator Jim Steen stated no additional correspondence received on this project. Pat Farrell stated that the structure is non-conforming and that with this approval the structure and addition will be brought into compliance.

Being no further discussion or questions, Vice-Chairperson Cheryl Erickson made a motion to close the Public Hearing. Second by Pat Farrell. **ALL AYES.**

Discussion ensued regarding the proposed project being treated as a whole when performing the Balancing Test.

UNFINISHED BUSINESS: **File 2015-17AV**
 Tax Map # 36.16-1-1
 John Fenaroli and Susan Durgin
 13 Lakeview Drive
 Adirondack, NY 12808

Area Variance from Zoning Code 8.10 for Roadway setback to build 6' X 6' roof over existing steps on a non-conforming structure to sit 36' from the road where 50' is required and for the existing structure to sit forty-two (42) feet from the road and an area variance from Zoning Code 15.10 to alter a pre-existing non-conforming structure to add an addition to the rear of the house and add a dormer to the second story.

The Board reviewed the Area Variance criteria:

The ZBA finds that variances from Section 8.10 Roadway setback of the Zoning Code regulations and an area variance from Zoning Code 15.10 to alter a pre-existing non-conforming structure are the minimum variances 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) The benefits sought by applicant could not be achieved by any other means feasible as the home was purchased where it is currently located and is on a dead end road.
- 2) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties and there are letters from the neighbors in support of this proposed project.
- 3) The requested variance is not substantial, the structure is a pre-existing, non-conforming structure and is a minimal fourteen (14) foot variance request and it will not change any traffic patterns nor change the character of the neighborhood.
- 4) There are no adverse physical or environmental effects.
- 5) The alleged difficulty was not self-created because the property predates the current ownership.
- 6) This is the minimum variance necessary.

Scott Olson made a motion to declare this a SEQRA Type II action and further review is not necessary. Second by Pat Farrell. **ALL AYES.**

Scott Olson made a motion to approve an area variance from Zoning Code 8.10 for a Roadway setback to build a six (6) foot by six (6) foot roof over existing steps on a pre-existing non-conforming structure to sit thirty-six (36) feet from the road where fifty (50) feet is required, and for the existing structure to sit forty-two (42) feet from the road and an area variance from Zoning Code 15.10 to alter a pre-existing non-conforming structure to add an addition to the rear of the house and add a dormer to the second story. Second by Pat Farrell. **ALL AYES.**

Mike Hill will be advised of the determination from the APA when received.

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Chairperson Thad Smith opened the Public Hearing on **File 2016-01 AV, Tax Map # 55.-1-11**

PUBLIC HEARING: **File 2016-01 AV**
 Tax Map # 55.-1-11
 William Bidwell
 44 Counterpoint Lane
 Brant Lake, NY 12815

Area Variance for Shoreline setback from Zoning Code section 11.24 to add an addition to a pre-existing non-conforming structure to sit 42' from the shoreline where 100' is required.

Bill Bidwell spoke on his own behalf regarding his proposed variance request. Mr. Bidwell stated that he is proposing to enlarge his home because of his growing family. He stated that this addition is on a non-conforming structure. He stated that the requested letter from the engineer was provided which states the engineer can put in a new or expanded wastewater system that will be adequately sited on the subject property and will meet all required setbacks to wetlands, water bodies and wells. The wastewater disposal system will be in conformance with NYS Department of Health. The information on the additional square footage of the addition was provided as well. A map was provided showing the distance from the lake to the end of the structure parallel to the lakeshore is fifty-seven (57) feet and the home is forty-two (42) feet from the shoreline. This is a most conservative request.

Pat Farrell asked when the survey for the new septic system is done will there be a plan to fill or remove the old septic. Zoning Administrator Jim Steen stated the final recommendation will come from Winchip Engineering and he will not issue the final Zoning Compliance Certificate until he receives the final inspection information for the septic system from the engineers.

Being no further discussion or questions, Vice-Chairperson Cheryl Erickson made a motion to close the Public Hearing. Second by Pat Farrell. **ALL AYES.**

UNFINISHED BUSINESS: **File 2016-01 AV**
 Tax Map # 55.-1-11
 William Bidwell
 44 Counterpoint Lane
 Brant Lake, NY 12815

Area Variance for Shoreline setback from Zoning Code section 11.24 to add an addition to a pre-existing non-conforming structure to sit 42' from the shoreline where 100' is required.

The Board reviewed the Area Variance criteria:

The ZBA finds that an Area Variance for Shoreline setback from Zoning Code section 11.24 to add an addition to a pre-existing non-conforming structure to sit 42' from the shoreline where 100' is required 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) The benefits sought by applicant could not be achieved by any other means feasible as the home is existing and the way the addition is being proposed the applicant is going further away from the lakeshore.
- 2) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties. Other neighbors have large homes as well and there will be no encroachment on the sidelines. This home will be in keeping with the neighborhood.
- 3) The requested variance is not substantial, although there will be sixty-seven (67 %) percent increase in the footprint of the house the request for the variance for the addition on the non-conforming home will go further away from the lakeshore.

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4) There are no adverse physical or environmental effects. The applicant has stated storm water runoff will be addressed by a professional engineer. The Board had a very lengthy discussion on the storm water runoff mitigation from this addition. After the discussion it was determined that the additional water runoff will not be a problem.

5) The alleged difficulty was not self-created. The current owners purchased the home at its current location.

6) This is the minimum variance necessary.

Scott Olson Scott Olson made a motion to declare this is a SEQRA Type II action and further review is not necessary. Second by Pat Farrell. **ALL AYES.**

Pat Farrell made a motion to approve an Area Variance for a Shoreline setback from Zoning Code section 11.24 to add an addition to a pre-existing non-conforming structure to sit 42' from the shoreline where 100' is required without any conditions. Second by Scott Olson. **ALL AYES.**

Chairperson Thad Smith opened the Public Hearing on **File 2016-02 AV, Tax Map # 55.-2-6 (aka 55.-2-6.1)**

PUBLIC HEARING:

File 2016-02 AV

Tax Map # 55.-2-6

Brant Lake Farm – David and Kirsten Carmel

19 Lake House Road

Brant Lake, NY 12815

Area Variance for a Shoreline setback from Zoning Code section 11.24 to add an addition to a pre-existing non-conforming structure to sit 6' from the shoreline where 50' is required and to build a screened porch on an existing deck to sit -6' from the shoreline where 50' is required. An Area Variance from section 9.70 #7(b) # (3) and # (4) (elevation requirements in flood hazard area).

Steve Alheim Project Manager from Eric and Eric Construction, representing David and Kirsten Carmel was present to speak on behalf of the homeowners and answer any questions the Board may have. Scott Olson asked when the deck that will be partially enclosed was first built. Vice-Chairperson Cheryl Erickson asked when the house was built. Zoning Administrator Jim Steen stated the original structure was built in 1965 and in 1985 the structure was remodeled. After a lengthy discussion it was determined to treat this as a pre-existing non-conforming structure.

Zoning Administrator Jim Steen explained that Section 9.70 of the Town of Horicon Zoning law states that if the home is located in a flood plain the code states that you must build one (1) foot higher than the estimated flood level determined by FEMA. Therefore the Applicant is also seeking a variance from this provision. He also told the Board that he spoke with the Warren County Building Department and was told if the addition's cost is less than 50% of the value of the home a flood plain certificate is not required by Warren County.

Being no further questions or comments Scott Olson made a motion to close the Public Hearing. Second by Pat Farrell. **ALL AYES.**

The Board reviewed the Area Variance criteria:

The ZBA finds that Area Variance for a Shoreline setback from Zoning Code section 11.24 to add an addition to a pre-existing non-conforming structure to sit 6' from the shoreline where 50' is required and to build a screened porch on an existing deck to sit -6' from the shoreline where 50' is required 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:

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- 1) The benefits sought by applicant could not be achieved by any other means feasible as the pre-existing non-conforming structure needs upgrading to make the home handicapped accessible.
- 2) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties. The backside of the home is only visible to the property owners and the home will look the same from the front. The roof line will stay under the original roof and there will be no visual impact from the lake.
- 3) The requested variance although looking substantial on paper is actually not substantial and the main addition is further away from the lake.
- 4) The request will have no adverse physical or environmental effects from the small roof addition.
- 5) The alleged difficulty is not self-created. The structure is being made more functional for the current owner.
- 6) This is the minimum variance necessary.

Scott Olson adopted a resolution that this is a SEQRA Type II action and further review is not necessary. Second by Pat Farrell.

Based on previous discussion Vice-Chairperson Cheryl Erickson made a motion to approve an Area Variance for a Shoreline setback from Zoning Code section 11.24 to add an addition to a pre-existing non-conforming structure to sit 6' from the shoreline where 50' is required and to build a screened porch on an existing deck to sit -6' from the shoreline where 50' is required. Second by Scott Olson.

ALL AYES.

The Board reviewed the Area Variance criteria:

The ZBA finds that An Area Variance from section 9.70 #7(b) # (3) and # (4) (elevation requirements in flood hazard area) 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)The benefits sought by applicant could not be achieved by any other means feasible as the pre-existing non-conforming structure needs upgrading to make the home handicapped accessible and should not be required to meet the standard to be five (5) feet higher than the existing home.
- 2) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.
- 3) The requested variance is somewhat substantial but given the extenuating circumstances this is the only way to mitigate the reason for the addition to make the addition handicap accessible.
- 4) The request will have no adverse physical or environmental effects as the existing home is in the flood plain and the addition is modest (approximately 600 square feet).
- 5) The alleged difficulty is not self-created. The structure is being made more functional for the current owner.
- 6) This is the minimum variance necessary.

Vice-Chair Cheryl Erickson made a motion to approve an Area Variance from section 9.70 #7(b) # (3) and # (4) (elevation requirements in flood hazard area) to permit an addition to be at the same elevation as the original structure. Second by Pat Farrell. **ALL AYES.**

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PUBLIC COMMENTS:

BOARD COMMENTS: Town Board member Bob Olson stated that the Town Board decided not to supply paper copies of the revised Zoning Ordinance that was sent via email as it is too much of an expense at this time because it is an unfinished document. There is a paper copy in the Zoning Office if anyone is interested in reviewing the document at the office.

Another short discussion ensued regarding mitigating storm water runoff impacts.

Being no further discussions or questions, Charles Lewis made a motion to adjourn the ZBA meeting. Second by Scott Olson. **ALL AYES.**

Meeting adjourned 8:50 pm.

Next meeting: July 26, 2016

Respectfully Submitted,
Theresa Katsch, Secretary