

**Town of Horicon
Zoning Board of Appeals**

**February 24, 2015
Minutes**

Present at Meeting: Cheryl Erickson, Vice Chair
Thad Smith
Charles Lewis
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, Zachary Monroe and Bret Winchip, Winchip Engineering, Larry McAvey, Contractor.

Agenda Items: **File # 2015-02AV – Patricia Greenwald – Tax Map # 72.13-1-32**
File # 2015-01 AV - Maureen and Robert Diaz, Adirondack General Store –Tax Map # 20.10-1-14

Pledge

Vice-Chair, Cheryl Erickson acting as Chairperson in the absence of Gary Frenz, called the meeting to order at 7:00 p.m.

Vice-Chair, Cheryl Erickson announced that Pat Farrell and Scott Olson would be seated as voting members tonight in the absence of ZBA Board members Carl Heilman and Gary Frenz.

Approval of Minutes: Vice-Chair, Cheryl Erickson announced the review of the January 27, 2015 minutes. Pat Farrell made a motion to accept the January 27, 2015 minutes as noted with corrections, 2nd by Thad Smith. **ALL AYES.**

NEW BUSINESS: **File # 2015-02AV**
Tax Map # 72.13-1-32
Patricia Greenwald
6941 State Route 8

Area Variance for dock surface area of 672 square feet where 297 square feet is allowed to construct a dock above the wetlands to access open water.

Zach Monroe, from Winchip Engineering speaking on behalf of applicant Patricia Greenwald, file # 2015-02AV, reviewed the proposed dock system with the Board members. He noted that this is a very unique situation where the distance between the mean high water mark and mean low water mark is much greater than usual on Brant Lake, and is further complicated by environmentally critical wetlands. They will be crossing over the wetlands with a dock. The 128' long portion which will be above the APA designated wetlands is necessary in order to access the 40' long portion in open water of Brant Lake, and is therefore considered part of the dock. The dock will require a variance from Section 11.60 of the Town of Horicon Zoning Ordinance for dock surface area where, based upon the width of the shoreline of 99 feet, 297 square feet of dock surface area would be allowed. The proposal will be 672 square feet and will require a variance of 375 square feet.

Attorney Mike Hill, explained to the Board members that his firm, MILLER, MANNIX, SCHACHNER & HAFNER, LLC represents Patricia Greenwald. Attorney Mike Hill spoke with Ms. Greenwald about her previous application with the ZBA that was for a walkway over the wetlands and needed a shoreline setback variance. Upon further consideration by James Steen, Zoning

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Administrator, he found it appropriate to treat the entire structure as a boat dock from the upland portion of lot to the area where boats are docked. The whole structure will be considered as a dock. Ms. Greenwald will withdraw her previous application and now wants to go forward with the new application for dock surface area variance.

Attorney Mike Hill stated that the APA is still missing information on this file; however, that will be provided to the APA and the Zoning Administrator has issued a new determination seeking a dock surface area variance. Ms. Greenwald needs to provide the Authority to Act as Agent form. This property is owned by Tumblebrooke Farm LLC and Ms. Greenwald is the majority owner of Tumblebrooke Farm LLC and has appointed her son, the manager of Tumblebrooke Farm LLC. Ms. Greenwald requests that the Board deem this application complete pending the receipt of the Authority to Act as Agent form signed by her son.

Scott Olson asked if anything about this project is related to another piece of property because of language in the APA letter.

Attorney, Mike Hill answered no, and further clarified what the APA wants to know which is whether or not there are other feasible alternatives for this proposed dock surface project.

There are adjacent properties with the same situation with the wetland properties creating a difficult situation for the properties owners due to designated wetlands and shallow lake water. Winchip Engineering will provide information about the wetlands and feasible alternatives for review.

Jim Steen, Zoning Administrator spoke to the Board regarding his determination that this proposed project is a dock and had a lengthy discussion with the APA as well, and the APA saw no problem with that determination.

Cheryl Erickson asked for a map or chart from the surrounding properties.

Zach Monroe responded at this time no map is available but will provide the Board with a map that shows this property, the adjacent Tumblebrooke Farm LLC property and the property northeast of this property that shows the difference between the wetlands and dryland portion of those lots.

Zach Monroe showed the Board pamphlets and brochures on the docking system and explained what the proposed dock system looks like. Essentially what the dock system is a galvanized aluminum pipe system that goes down into the ground with mud plates over it preventing any further sinking. The top portion is a grid which allows light and water to filter through. The proposed portion over the wetlands is a Hewitt DAMUD 12" x 8 1/2" aluminum mud pad at 8' on center (34 required total disturbance is 24+ square feet). This portion of the proposed decking is non removable and the last 40' will be a standard dock which can be removed seasonally.

Pat Farrell made a motion to deem the application complete and schedule a Public Hearing for March 24, 2015 subject to receiving the signed Authority to Act as Agent form and maps from Winchip Engineering. 2nd by Scott Olson. **ALL AYES.**

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PUBLIC HEARING:

File # 2015-01 AV

Tax Map # 20.10-1-14

Maureen & Robert Diaz/Adirondack General Store
899 East Shore Drive

Area Variance for two (2) roadway setbacks to add a 12' x 19' deck to a pre-existing non-conforming structure.

Cheryl Erickson asked if there was anyone present to speak on the proposed project for a deck with a pergola to be added onto the Adirondack General Store.

Larry McAvey, contractor representing Maureen and Robert Diaz from the Adirondack General Store reviewed with the Board members the proposed project for a 12' x 19' waiting area deck with a pergola to be added on to Adirondack General Store to allow customers to sit on, which will free up space in the store. The existing structure is close to the road and the proposed deck is triggering the need for the variances.

Lengthy discussion ensued among Board members regarding the setbacks, pre-existing non-conforming structures and Horicon Town Code.

Thad Smith asked if this property is located in the Hamlet. Larry McAvey, contractor, responded yes.

Discussion ensued among Board members regarding whether setbacks are from center line of road or edge of road.

Jim Steen responded it is either from the center line or the edge of road. Both are acceptable measurements.

Jim Steen, Zoning Administrator also indicated the proposed structure is non-jurisdictional for the APA because it is located in the Hamlet.

Cheryl Erikson asked if there were any other questions from the public and any other questions from the Board members.

Being no further discussion or questions, Charles Lewis made a motion to close the public hearing. 2nd by Thad Smith. **All AYES.**

UNFINISHED BUSINESS:

File # 2015-01 AV

Tax Map # 20.10-1-14

Maureen & Robert Diaz/Adirondack General Store
899 East Shore Drive

Area Variance for two (2) roadway setbacks to add a 12' x 19' deck to a pre-existing non-conforming structure.

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The Board reviewed the Area Variance criteria:

The ZBA further finds that variances from **Section 15.10 Alteration of a pre-existing, non-conforming structure** and **Section 8.10 Roadway setback** of the Town of Horicon 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:

The applicants own the property next door to the Adirondack General Store in the Hamlet and having a deck for customers to sit on will enhance the character of the store and it will be much safer than having customers standing in the roadway. The deck with the pergola will create a nice ambiance for the General Store's customers along with an improvement to the neighborhood.

2) The benefits sought by applicant could not be achieved by any other means feasible because they are restricted in the back by the septic and at the sides of the building as well. Two (2) sides of the building are bordered by the roads. There is a pre-existing door from the store that makes this proposed deck with pergola the most beneficial placement for the applicants.

3) The requested variance is not substantial. Given the footprint of the pre-existing, non-conforming structure the 8.7 foot proposed roadway setback variance is not substantial and is more conforming than the existing structure.

4) There are no adverse physical or environmental effects as this is not an intrusive structure and there is no roof on the proposed deck and therefore will not cause any rain runoff and the deck surface is not a solid surface which will allow the water to run through the deck preventing additional runoff from taking place. The proposed deck will not have any foot traffic from the road, only through the store and there will be no tree removal.

5) The alleged difficulty was not self-created because the store has been there for generations and it will be a modernization of the existing structure. The current owners inherited this and they have to deal with what they have been dealt.

6) This is the minimum variance necessary.

Conditions: None

Noting that this project is exempt from SEQRA.

Thad Smith made a motion to approve **File # 2015-01 AV** for an area variance for two (2) roadway setbacks for a pre-existing non-conforming structure and to add a 12' x 19' deck which will sit 31.3 feet from the edge of Redwing Road where 40 feet is required. 2nd by Pat Farrell. **ALL AYES.**

An Area Variance for Roadway Setback should be granted because the applicant has proven practical difficulty in view of the manner in which the difficulty arose and considering the factual findings, the interests of justice will be served by allowing the 8.7 ft. roadway variance.

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PUBLIC COMMENTS: NONE

BOARD COMMENTS: Cheryl Erickson, Vice-Chair discussed with the Board members the Adirondack Park Local Government Conference taking place on April 15, 2015 and April 16, 2015. Scott Olson will be going to the Conference. No other Board Members are able to attend.

**Being no further comments or questions, Thad Smith made a motion to adjourn the meeting at 8:25 PM, 2nd by Scott Olson.
ALL AYES.**

NEXT MEETING: March 24, 2015

Respectfully Submitted,
Theresa Katsch
Secretary