

**Town of Horicon
Zoning Board of Appeals**

**January 26, 2016
Minutes**

Present at Meeting:

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

Also Present: Bob Olson, Town Board member, Mike Hill, John Fenaroli, Susan Durgin, Steve Alheim, Darcy Blake, Bill McGhie, Planning Board Chairperson, Bill Bidwell, Sue Bidwell, Jim Steen, Zoning Administrator.

Agenda Items: **File # 2016-01 AV Tax Map # 55.-1-11**
 File # 2016-02 AV Tax Map # 55.-2-6
 File # 2015-17 AV Tax Map # 36.16-1-1

Pledge

Chairperson Thad Smith announced that in the absence of Gary Frenz, Scott Olson Alternate # 1, would be seated as voting member tonight and in the absence of ZBA Board member Charles Lewis, James Dewar Alternate #2, would be seated as a voting member as well.

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 December 15, 2015 minutes as written. Second by Pat Farrell. **ALL AYES.**

NEW 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.

Bill Bidwell spoke on his own behalf regarding his proposed variance request. He gave a brief history of how he came to own the property stating that his parents bought the original property in 1976 and how it had changed owners over the years. In 2012 William Bidwell was able to purchase the home for his family and he would like to add on to the home for his growing family. Bill Bidwell stated that his mother owns the property next door.

Vice-Chairperson Cheryl Erickson asked Bill Bidwell if he is facing the water from the porch which side his mother's house is on and Bill Bidwell stated it is on the left side and the house borders the Schulz's property on the right. The property meets all of the intensity regulations on the side line.

Jim Steen, Zoning Administrator stated that there are wetlands on this property and that a new septic was installed in 2008 that is a standard system and is designed two-hundred (200) feet from the wetlands.

Pat Farrell asked Bill Bidwell if he is building the addition over the well and Bill Bidwell answered yes. Discussion ensued regarding pulling the well. Scott Olson stated that it has no bearing on this variance request.

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Town Attorney Leah Everhart asked Zoning Administrator Jim Steen if there was a deed on file for this property and Zoning Administrator Jim Steen presented Leah Everhart with the deed from the file.

Scott Olson asked Bill Bidwell to site the point from the shoreline to the end of the addition as the setback gains distance and present that information at the next meeting.

Vice-Chairperson Cheryl Erickson asked Bill Bidwell about the square footage increase to the home and if could present that information at the next meeting.

Vice-Chairperson Cheryl Erickson stated that if an upgrade to the septic system is needed that the Board receive a letter from the engineer stating that the setback from the septic to the wetlands be the required distance so that when the Board discusses the summary of area variance criteria at the next meeting there will not be any issues. Also when the file goes to the APA for review there will not be issues with the septic encroaching on the wetlands. Bill Bidwell stated that the information requested will be presented at the next meeting.

Scot Olson made a motion to deem the application complete and set a Public Hearing for February 23, 2016. Second by Vice-Chairperson Cheryl Erickson. **ALL AYES.**

NEW BUSINESS:

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 gave some background on the Carmel's situation. Quite a few years ago David Carmel was in a car accident and is now wheelchair bound and they are proposing to increase the footprint of the current home by adding an addition approximately 600 square feet to the existing structure and a screened in porch on the existing deck over the lake. Because of the wheelchair situation they are trying to keep everything level without having to install any steps in the new addition and make the home handicap accessible. This home is located in a floodplain.

Scott Olson asked if the addition is behind the house and Steve Alheim responded yes and they are trying to follow the footprint of the home as much as possible.

There was a discussion regarding the deck and some confusion because an existing deck will be removed and create living space and an existing deck that is over the water will be partially enclosed. Jim Steen, Zoning Administrator showed the Board members on the map where the addition and the deck are located, clarifying the confusion.

Town Attorney Leah Everhart stated that there is a wrinkle with the requested variances. Zoning Administrator Jim Steen agreed and explained that Section 9.70 of the Town of Horicon Zoning law states that if the home is located in a flood plain the project needs approval by the Planning Board. 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.

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Scott Olson asked the applicant if he can provide good faith estimates sufficient for review by the Board on the elevation of the home and what the height requirements are and what is to be built for the next meeting.

Zoning Administrator Jim Steen asked Town Attorney Leah Everhart if the variance is approved would there be any liability for the Town. Leah Everhart stated that while a claim could be made there would be no merit to such a claim.

Scott Olson asked if the variance is approved would this become a precedent. Town Attorney Leah Everhart explained that variances do have precedential value. However, just because the Board reaches one conclusion in one application, does not necessarily mean it has to reach the same conclusion in a similar applications, as long as there is some relevant difference between them. However, if this happens the Board should identify the different fact that warrant the different result.

Zoning Administrator Jim Steen stated that he does not know what the current septic system is; however, there will be a new septic system installed for this proposed project and it will be out of the floodplain area.

Scott Olson made a motion to deem the application complete and schedule a public hearing for February 23, 2016. Second by Vice-Chairperson Cheryl Erickson. **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.

Area Variance from Zoning Code 15.10 to alter a 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 and asked if there was anyone present to speak on the proposed project or any comments from the public.

Mike Hill spoke on behalf of owner John Fenaroli regarding the proposed plan to add a roof over the entry steps in the front of the home for safety reasons and add an addition to the side and rear of the home and a dormer upstairs in the rear to make a bathroom. They are not increasing the number of bedrooms, just enlarging some of the rooms and moving the existing bathroom to the new addition and turn the existing bathroom into a closet. The home sits too close to Lakeview Drive and does not meet the Town of Horicon setback regulations; therefore, an area variance for a roadway setback is required.

Chairperson Thad Smith asked if the house was conforming. Mike Hill stated that the structure is not conforming. Town Attorney Leah Everhart stated that if the house was built where the applicable setback requirements were not met then the Board should ask for a variance for entire structure.

Chairperson Thad Smith indicated he knew the previous owner and that he verbally stated there was a variance on the structure; however, no variance paperwork was located.

Discussion ensued regarding variances granted in the 1980's and previous recordkeeping. This structure did not meet the applicable setback requirements when first built. Town Attorney Leah Everhart asked how the Notice of Public Hearing was worded and suggested that the Public Hearing be held open until February 23, 2016 and have the applicant verbally amend the application previously submitted. Then re-notice the Public for a variance for the original structure.

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Susan Durgin stated that they had no problem purchasing the home and have owned the property for 10 years. Chairperson Thad Smith explained to the property owners that if they go to sell the property in the future, it would be better to have all of the variance requests in order.

Chairperson Thad Smith stated that there was a letter received from the neighbors, Raymond and Mary Necci in support of the proposed project.

Mike Hill, representing the applicants, verbally amended the application to state that he is making a variance request for the location of the overall structure.

Discussion ensued regarding re-noticing the application and the Board will hold the Public Hearing open until the next ZBA meeting on February 23, 2016.

Pat Farrell made a motion to keep the Public Hearing open on this file until the next ZBA meeting on February 23, 2016 and to re-notice the application. Second by Scott Olson. **ALL AYES.**

PUBLIC COMMENTS:

BOARD COMMENTS: Chairperson Thad Smith reminded the Board members that the Saratoga County Planning and Zoning Conference is scheduled for January 27, 2016.

Being no further discussions or questions, James Dewar made a motion to adjourn the ZBA meeting. 2nd by Pat Farrell. **ALL AYES.**

Meeting adjourned 8:15 pm.

Next meeting: February 23, 2016

Respectfully Submitted,
Theresa Katsch, Secretary