

**Town of Horicon  
Zoning Board of Appeals**

**November 24, 2015  
Minutes**

**Present at Meeting:** Gary Frenz, Chairperson  
Cheryl Erickson Vice-Chairperson  
Pat Farrell  
Thad Smith  
Scott Olson, Alternate #1  
James Dewar, Alternate #2

**Also Present:** Leah Everhart, Town Attorney, Jim Steen, Zoning Administrator, Bill McGhie, Planning Board Chairman, Bob Olson, Town Board member, Peter Palmer, John Palmer, Bret Winchip, John Ogden.

**Agenda Items:** File # 2015-14 AV Tax Map # 54.-1-41  
File # 2015-13 AV Tax Map # 39.17-1-14

**Pledge**

Chairman Gary Frenz announced that Scott Olson would be seated as voting member tonight in the absence of ZBA Board member Charles Lewis.

Chairperson Gary Frenz called the meeting to order at 7:00 p.m.

Chairperson Gary Frenz noted that the voting members on the October 27, 2015 minutes would be Chairperson Gary Frenz, Vice-Chairperson Cheryl Erickson, Thad Smith, Pat Farrell and James Dewar.

**Review of Minutes:** Pat Farrell made a motion to approve the October 27, 2015 minutes as written. Second by Vice-Chairperson Cheryl Erickson. **ALL AYES.**

**PUBLIC HEARING:** File 2015-14AV  
Tax Map # 54.-1-41  
Peter Palmer  
187 Pease Hill Road  
Brant Lake, NY 12815

**Requesting variances from section 8.10 required in order to subdivide:  
Lot #1 (Garage Lot): Proposed lot size of 1.3 ac where 5 ac is required.  
Proposed Roadway frontage of 130' where 300' is required.  
Lot # 2 (House Lot): Proposed lot size of 4.26 ac where 5 ac. is required.**

Peter Palmer spoke on behalf of the proposed request for the variances in order to subdivide the current lot into lot # 1 –garage lot and lot # 2- house lot. Peter and his brother built the current garage as a hobby area and to store classic cars. If Peter were to pass away he wants his brother and his children to have the garage lot. There is no water or sewer on the garage lot. The other properties in the neighborhood are non-conforming lots as well. The current garage will remain a garage and never be altered to a residence or be a buildable lot. In the event of his passing and his wife has to sell the house he wants the garage lot separated in order for his brother to keep the garage.

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Pat Farrell recused himself from voting on this application because he is applicant Peter Palmer's neighbor.

Chairperson Gary Frenz appointed Alternate # 2, James Dewar to take Pat Farrell's place as a voting member on this application.

Being no further questions or comments from the public Vice-Chairperson Cheryl Erickson made a motion to close the Public Hearing. 2<sup>nd</sup> by Thad Smith. **ALL AYES.**

Town Attorney, Leah Everhart suggested to the Board that a SEQRA review be done as the Action appears to be "Unlisted".

The SEQRA review was completed and based on the information discussed and analysis by the board members the proposed action will not result in any significant adverse environmental impacts. Scott Olson made a motion to declare a negative SEQRA declaration. 2<sup>nd</sup> by Thad Smith. **ALL AYES.**

**UNFINISHED BUSINESS:**           **File 2015-14AV**  
  **Tax Map # 54.-1-41**  
  Peter Palmer  
  187 Pease Hill Road  
  Brant Lake, NY 12815

**Requesting variances from section 8.10 required in order to subdivide:**  
**Lot #1 (Garage Lot): Proposed lot size of 1.3 ac where 5 ac is required.**  
**Proposed Roadway frontage of 130' where 300' is required.**  
**Lot # 2 (House Lot): Proposed lot size of 4.26 ac where 5 ac. is required.**

The Board reviewed the Summary of Area Variance criteria for Lot # 1, the garage lot:

The ZBA finds that variances from **Section 8.10 Roadway frontage and lot size of 1.3 acres where 5 acres is required** of the Town of Horicon Zoning Code regulations in order to subdivide 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. The ZBA further finds:

1. The benefit cannot be achieved by other means feasible to applicant as Mr. Palmer is trying to keep the lots as close to intensity regulations for the requested variances. Lot # 2, the house lot should be larger than the Lot # 1, the garage lot. The garage lot has one-hundred and thirty feet (130') of road frontage and many other lots in the neighborhood have less than that amount of road frontage.
2. There will be no undesirable change to the neighborhood character or to nearby properties because most lots on Pease Hill Road are small and pre-existing, non-conforming lots. This is not a busy road.
3. The request is substantial; however, it is still in keeping with the character of the neighborhood and is not a residential dwelling. It also allows for Lot # 2, the house lot to be closer to the Town of Horicon intensity of lot size regulations.
4. There will be no adverse physical or environmental effects as the garage has been there since 2008 and it is still in keeping with the neighborhood.
5. The alleged difficulty is self-created; however, not intentionally. The garage was not built with the intention to subdivide and sell but the situation arose from needs within the family.
6. If approved this request shall grant the minimum variance necessary and a condition be imposed that the garage will not be converted to a home and no residential structures be built on the lot. This language shall be placed in the deed and on the Subdivision map.

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The Board reviewed the Summary of Area Variance criteria for Lot # 2, the house lot:

The ZBA finds that variances from **Section 8.10 Intensity Regulations of lot size of 4.26 acres where 5 acres is required** of the Town of Horicon Zoning Code regulations in order to subdivide 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. The ZBA further finds:

1. The benefit cannot be achieved by other means feasible to applicant as Mr. Palmer is trying to keep the lots as close to intensity regulations for the requested variances. Lot # 2 the house lot should be larger than the Lot # 1, the garage lot.
2. There will be no undesirable change to the neighborhood character or to nearby properties because most lots on Pease Hill Road are small and pre-existing, non-conforming lots. This is not a busy road.
3. The request is not substantial and it is in keeping with the character of the neighborhood. It also allows for Lot # 2 the house lot to be closer to the Town of Horicon intensity of lot size regulations.
4. There will be no adverse physical or environmental effects as the house has been there since 1993 and it is still in keeping with the neighborhood.
5. The alleged difficulty is self-created; however, not intentionally as with the consideration as in lot # 1- Garage lot. This lot is closer to the five (5) acre intensity zoning regulations and there is suitable growth between the house and the garage so that the garage is properly hidden from the house.
6. If approved this request shall grant the minimum variance necessary.

Being no further questions or comments and based on the previous discussions, Vice-Chairperson Cheryl Erickson made a motion to approve the variance request on lot # 1-Garage lot with the imposed condition that the garage will not be converted to a home and that no residential structure be built on the lot. This language shall be placed in the deed and on the Subdivision map. And approve the variance request on lot # 2- House lot without conditions. 2<sup>nd</sup> by Scott Olson. **ALL AYES.**

**CONDITION:** lot # 1-Garage lot will not be converted to a home and that no residential structure be built on the lot. This language shall be placed in the deed and on the Subdivision map and reviewed by Town Attorney.

Pat Farrell was seated again as a voting member of the Board for the next application **File # 2015-13AV**. James Dewar was seated again as the Alternate # 2.

**PUBLIC HEARING:**

**File 2015-13AV**  
**Tax Map # 39.17-1-14**  
 John and Donna Ogden  
 7829 State Rte. 8  
 Brant Lake, NY 12815

**Requesting a Roadway Setback from Zoning Code 8.10 of 30.6' from the edge of the road where 50' is required for a variance of 19.4' in order to build a 26' by 32' garage.**

Brett Winchip spoke on behalf of the homeowners, John and Donna Ogden. He proposes to remove an existing shed from the lot and build a garage. The garage will allow a staircase with storage above. The lot is unique and does not extend far enough back due to the bank on the property; therefore, the garage cannot move further back and needs the requested roadway setback. Bret Winchip

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stated that they cannot excavate into the bank without getting closer to the rear property line and possibly going over it. Other buildings in the neighborhood have similar setbacks. The neighbor to the east had a twenty-five (25') foot variance approved in 2009.

The Board members were provided a copy of the satellite picture of the property as requested at the October 27, 2015 meeting.

Brett Winchip also stated a JIF was sent to APA and there is no need for a permit from the APA for this requested variance.

Town Attorney Leah Everhart indicated that the Warren County Planning Department reviewed this application and that there is no County impact.

Vice-Chairperson Cheryl Erickson asked Brett Winchip why the thirty-two foot depth was necessary. Brett Winchip stated that the stairway to the storage area upstairs needs to be located in the rear of the garage and typically in a twenty-seven (27') garage five (5') feet are lost with concrete and staircase thus making the thirty-two (32') necessary.

Scott Olson asked if the storage area is upstairs and Brett Winchip responded yes.

Zoning Administrator Jim Steen told the Board members that Mr. and Mrs. Ventura who are neighbors of John and Donna Ogden came into the office to look at the proposed plans for the garage and had no objections to the proposed project.

Being no further questions or comments from the public Scott Olson made a motion to close the Public Hearing. 2<sup>nd</sup> by Vice-Chairperson Cheryl Erickson. **ALL AYES.**

**This is a TYPE II action and therefore exempt from SEQRA.**

**UNFINISHED BUSINESS:**            **File 2015-13AV**  
   **Tax Map # 39.17-1-14**  
   John and Donna Ogden  
   7829 State Rte. 8  
   Brant Lake, NY 12815

**Requesting a Roadway Setback from Zoning Code 8.10 of 30.6' from the edge of the road where 50' is required for a variance of 19.4' in order to build a 26' by 32' garage.**

The Board reviewed the Summary of Area Variance criteria:

The ZBA finds that variances from **Section 8.10 Roadway setback** of the Town of Horicon Zoning Code regulations 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. The ZBA further finds:

1. The benefit cannot be achieved by other means feasible to the applicant because there are constraints on the lot size that prevent placing the garage anywhere else on the property.
2. There will be no undesirable change to the neighborhood character or to nearby properties. It is in keeping with the other structures in that neighborhood. The next door neighbor was granted a variance for a garage in 2009.
3. The request is substantial; however, a moderate request for a variance and is in keeping with the other properties in the area.
4. The request will not have any physical or environmental effects because there will not be any runoff, there will be gravel around the garage, no trees will be removed and the increase in the impervious area is minimal.
5. The alleged difficulty was self-created; however, due to constraints on the property with lot size and ledge there is no other place on the property to place the proposed garage.
6. If these variances are approved they will be the minimum variances necessary. Many of the houses in the neighborhood have the same situation and is in keeping with the neighborhood.

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Scott Olson made a motion to approve the variance request as per the Boards discussion without any conditions. 2<sup>nd</sup> by Pat Farrell.  
**ALL AYES.**

**PUBLIC COMMENTS:**

**BOARD COMMENTS:** Chairperson Gary Frenz announced that this will be his last meeting as the Chairman and indicated that Cheryl Erickson will still be serving as Vice-Chairperson. The Board members thanked Gary for his service as Chairman.

Being no further discussions or questions, Pat Farrell made a motion to adjourn the ZBA meeting. 2<sup>nd</sup> by Scott Olson. **ALL AYES.**

**Meeting adjourned 8:20 pm.**

**Next meeting:** December 15, 2015

Respectfully Submitted,  
*Theresa Katsch*, Secretary