

**Town of Horicon
Zoning Board of Appeals**

**November 25, 2014
Minutes**

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

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

Bernie Hill, Nate Hill, Don Tosti, Troy Soka

Agenda Items: File # 2014-08AV – Brian Venn -Tax Map # 72.13-2-50
File # 2014-09AV - Tax Map # 38.20-1-3 - Monaco Brant Properties, LLC
File # 2014-07AV - Sgambati, Soka, Ridin-Hy, Beadnell - Tax Map 122.12-1-24

Pledge

Chairperson Gary Frenz called the meeting to order at 7:05 p.m.

Approval of Minutes: Chairperson, Gary Frenz announced the October 28, 2014 minutes will be carried over for review at the December 16, 2014 ZBA meeting. Cheryl Erickson, Vice Chair made a motion to carry over for review at the October 28, 2014, 2nd by Charles Lewis. 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, the contractor representing the applicant was ready to speak about the proposed dock length and dock surface area variance for file # 2014-08AV and Jim Steen, Zoning Administrator explained to the Board, Bernie Hill and others present a problem that occurred with mailing the Legal Notices. Two of the addresses were incorrect and therefore, were not received in a timely manner for the public hearing.

Attorney, Mike Hill suggested the Public Hearing be continued at the December 16, 2014 Zoning Board of Appeals meeting.

Chairperson Gary Frenz, requested that the Legal Notice for File # 2014-08AV be sent out again to adjoining owners and placed in the Post Star as well.

Chairperson Gary Frenz reviewed with the Board Members the Warren County Planning Department project review form from File # 2014-08AV Brian Venn and stated there are no issues and no significant impacts on the County; however, the proposed project has a stipulation that the dock not be used for commercial

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purposes. Chairperson Gary Frenz also suggested the Public Hearing on file # 201408AV be continued at the December 16, 2014 Zoning Board of Appeals meeting.

Vice-Chair, Cheryl Erickson made a motion to continue the Public Hearing on File #2014-08 AV until the next Zoning Board of Appeals meeting on December 16, 2014, 2nd by Thad Smith. All AYES.

PUBLIC HEARING:

**File # 2014-09AV
Tax Map # 38.20-1-3
Monaco Brant Properties, LLC
Bedell Builders
18 Horicon Birches**

Area variance for shoreline setback of 42' 6" where 50' setback is required to build an addition to the pre-existing, non-conforming home.

Mr. Donald Tosti, representing Monaco Brant Properties, LLC and also an adjoining owner explained the reason for the requested setback variance.

Chairperson Gary Frenz asked if we have an Authorization to act as agent form on file and Jim Steen, Zoning Administrator responded there is one on file.

Cheryl Erickson, Vice-Chair asked Mr. Tosti what the square footage of the original home is and what the additions square footage will be. She asked about the septic system as well.

Mr. Tosti responded that the original home is 890 square feet and the addition will be 320 square feet. The septic system is two (2) to (3) three years old and Jim Steen indicated the septic is the appropriate size for the home and the addition.

Chairperson Gary Frenz asked if there are any questions regarding this project. Thad Smith asked if the home and addition is just seasonal. Mr. Tosti responded that yes it is just seasonal and the addition will be on a frost wall foundation.

Attorney, Mike Hill wanted to clarify how many variances will be needed for this project and discussion ensued with the Board members on the variance request that will be needed and past practice of the variance approvals for non-conforming structures. In this project there will be a shoreline variance needed for the non-conforming structure, the closest point to the shoreline. Jim Steen, Zoning Administrator stated that because the addition will be further back from the pre-existing structure the

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shoreline variance necessary will be 27' 10". Cheryl Erickson, Vice-Chair asked about the closest point to the lake and stated that usually a variance is given to the structure itself. Cheryl Erickson, Vice-Chair asked about past practice regarding shoreline setback for pre-existing non-conforming structures. Jim Steen, Zoning Administrator read the regulations on variances for pre-existing non-conforming structures. Then after further discussion it was decided that the shoreline setback variance for 27' 10" will become the variance in this circumstance and keep the past practice of going off the footprint of the non-conforming structure. Cheryl Erickson, Vice-Chair stated that in the notes it should state the proposed addition is actually farther away than the pre-existing, non-conforming structure itself, so then the variance needed would have to be the existing structure's closest point to the lake. Attorney, Mike Hill stated that if the past practice has been to give the variance to the non-conforming structure then the variance required in this circumstance will be one variance of 27' 10" for the entire structure and note that the addition is farther away than the original structure which has necessitated the request for the variance as stated. Chairperson Gary Frenz explained that anything done on a non-conforming structure will necessitate a shoreline variance request on the pre-existing non-conforming structure and the addition as well.

Being no further discussion or questions, Cheryl Erickson, Vice Chair made a motion to close the public hearing and also state that the distances publicized are slightly different but the application itself has not changed. 2nd by Carl Heilman. All AYES.

**UNFINISHED BUSINESS: File # 2014-09AV
Tax Map # 38.20-1-3
Monaco Brant Properties, LLC
Bedell Builders
18 Horicon Birches**

Area variance for shoreline setback of 42' 6" where 50' setback is required to build an addition to the pre-existing, non-conforming home.

The Board reviewed the Area Variance criteria:

The Zoning Board of Appeals further finds that variances for Section 11.24 Shoreline setbacks 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. Entire similar structures/size in neighborhood. There will be no unnecessary vegetative cutting. Not encroaching on side yard setbacks. The addition is no closer to the lake than the existing non-conforming structure.

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- 2) The benefits sought by applicant could not be achieved by any other means as the applicant's proposed design would minimize the disturbance to the property by allowing the existing driveway to remain, limiting the area of disturbance. Due to the topography the placement of this structure creates less tree removal which is beneficial to the parcel. This is the best placement of the addition and the addition cannot be placed anywhere else on the property due to the septic and driveway.
- 3) The requested variance is substantial, however, the addition is further back from the shoreline than the pre-existing non-conforming structure and is relatively small in square footage. The current structure is 890 square feet and the addition is only 320 square feet.
- 4) There is no adverse physical or environmental effects as only minimum tree removal is necessary and will not cause any drainage issues.
- 5) The alleged difficulty was not self-created because terrain is very rocky, limiting the area where the building would be placed.
- 6) This is the minimum variance necessary.

Attorney Mike Hill noted that this project is exempt from SEQRA.

In further review of the summary of Area Variance Criteria vegetative plantings a lengthy discussion ensued regarding vegetative screening. Chairperson Garry Frenz noted there will be natural vegetative screening between the shoreline and the house and proposed a condition that the Zoning Administrator will go to inspect the site after completion.

Being no further discussion or questions, Carl Heilman made a motion to approve application 2014-09AV for a shoreline variance setback of 27' 10", with the condition as discussed. 2nd by Thad Smith. All AYES.

CONDITIONS: That natural vegetative planting be done to screen the structure from the lakeshore and verified by the Zoning Administrator after completion.

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**UNFINISHED BUSINESS: Tax Map 122.12-1-24
Sgambati, Soka, Ridin-Hy, Beadnell
North Sherman Lake Road**

Area Variance 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.

Jim Steen, Zoning Administrator explained the prior history of this file to the Board and that an agreement was drawn up amongst the applicants and an amended application was submitted. The agreement was sent to the APA to see if there will be a problem with the proposed agreement.

Troy Soka clarified his presence at this meeting. He was there only to discuss the language of the new agreement. Discussion ensued regarding time frame for submitting the signed agreement.

Attorney, Mike Hill suggested there be some modifications to the agreement drawn up and consented to by all owners prior to the next meeting.

Jim Steen, Zoning Administrator suggested that the Public Hearing be scheduled for December 16, 2014 and reminded the Board that if the Board desires the Public Hearing can be continued.

Discussion ensued regarding owners of all the properties.

Attorney, Mike Hill suggested to the Board that the owners need to understand that if this variance is granted there are no guarantees any future expansion of the dock will be approved by the Zoning Board of Appeals or the Planning Board.

PUBLIC COMMENTS: NONE

BOARD COMMENTS: Chairman, Gary Frenz asked the Secretary to request information for the dates of the Saratoga Training Conference.

The Board discussed whether or not the Authority to Act as Agent forms need to be notarized and it was a unanimous decision that yes the forms need to be notarized going forward.

Being no further comments or questions, Cheryl Erickson, Vice Chair made a motion to adjourn the meeting at 8:30 PM, 2nd by Carl Heilman. All AYES

NEXT MEETING: December 16, 2014

Respectfully Submitted,
Theresa Katsch
Secretary

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DRAFT

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