

**Town of Horicon
Zoning Board of Appeals**

**November 28, 2017
Minutes**

Present at Meeting:

Cheryl Erickson, Chairperson
Scott Olson
James Dewar

Also Present: Town Attorney Leah Everhart, Frank Dinger, Mike Infantino, Bob Olson, Bill McGhie, Richard and Joanne Nawrot.

Agenda Items:	File 2017-19 AV	Tax Map # 19.4-2-18.1
	File 2017-15 AV	Tax Map # 36.15-1-8
	File 2017-17 AV	Tax Map # 36.11-1-11
	File 2017-18 AV	Tax Map # 36.11-1-10

Chairperson Cheryl Erickson called the meeting to order at 7:00 p.m.

Review of Minutes: Scott Olson made a motion to accept the October 24, 2017 minutes as amended. Second by James Dewar.
ALL AYES.

NEW BUSINESS: **File 2017-19 AV**
Tax Map # 19.4-2-18.1
Richard and Joanne Nawrot
550 East Shore Drive
Adirondack, NY

Requesting an Area Variance for a roadway and shoreline setback from **Zoning Code 6.10** to remove existing walkway to lake; expand existing raised area at lakefront by +/- 20'; install new retaining wall at roadside; and a new walkway to lake.

Rich Nawrot was present to speak about his proposal. He is doing some restructuring of what is already existing by moving materials around. He went to the APA and DEC and they approved the proposal. There are safety reasons for restructuring the walkway at roadside. He will have a new rock wall at roadside and will be widening the walkway coming down from the roadside or a set of stairs to the raised area at the lakeside. He is expanding his lawn area by about 20' and pushing it back.

Chairperson Cheryl Erickson asked Rich Nawrot if he will be adding dirt to the raised area.

Rich Nawrot stated that the natural material already at the site that will be removed from current walkway will be used for the raised area and topped off with sand and soil.

Scott Olson asked for clarification on the pictures that Rich Nawrot submitted with the application regarding the stone wall at the lakeside.

Rich Nawrot went over the pictures with the Board members to clarify which areas will be raised and which stone walls will be extended.

Scott Olson stated that by putting picture 2A and 2B together you can see the raised section and Rich Nawrot wants to raise the lower section to same height as raised section. Rich Nawrot will raise his dock as well. Once it is raised about 3' higher the walkway will be straight down to the shoreline and the deck currently at that location will be removed.

Rich Nawrot clarified that he is adding to the existing stone wall at the shoreline and adding a new walkway.

Chairperson Cheryl Erickson asked if the X's on the site plan are the new walkways and Rich Nawrot stated that is correct.

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Scott Olson and Rich Nawrot had a discussion about the flooding area at the lakeside. Rich Nawrot explained that during the spring runoff the lake is raised due to flooding and he is not filling in the lake. The APA did approve the project.

Chairperson Cheryl Erickson asked if there is a deed on file.

Secretary Terri Katsch responded yes.

Scott Olson made a motion to deem the application complete and schedule a Public Hearing for December 19, 2017. Second by James Dewar. **ALL AYES.**

PUBLIC HEARING:

File 2017-15 AV

Tax Map # 36.15-1-8

Robert Morgan (represented by Mike Infantino)

288 East Shore Drive

Adirondack, NY

Requesting an Area Variance for a shoreline setback and a roadway setback from **Zoning Code 6.10** to build a 12' x 20' deck and move an 8' x 8' shed and a deck from the waterfront to top of bank and attach a set of stairs to the deck to sit 12' from the shoreline where 50' is required and to sit 58' from the roadway where 60' is required.

Town Attorney Leah Everhart asked if the numbers for the variances were amended at the last meeting.

Chairperson Cheryl Erickson stated that the application was amended to show the variance request of 2' for the roadway setback and a 38' variance request for the shoreline setback at the previous ZBA meeting.

Mike Infantino was there to represent the Morgan's application. The Morgan's purchased the property last February 2017. What they would like to do is remove a deck at the waterfront and move it to the top of the bank and move a shed from the waterfront to the top of the bank.

Scott Olson asked Mike Infantino if everything in green will be removed, everything in pink (red) stays the same and everything in orange is additional as indicated on the color coded site plan.

Mike Infantino responded yes, that is correct.

Chairperson Cheryl Erickson asked what the current shoreline setbacks are on the structures.

Mike Infantino responded about 7'-8'.

Scott Olson asked what the setback from the shoreline will be with the new stairs.

Mike Infantino responded 12' from shoreline but they will be aluminum stairs that will be raised during most of the year and lowered only during summer months.

Chairperson Cheryl Erickson asked what the setback will be for the structure (platform) up on the top of the bank.

Mike Infantino responded about 28' from the water.

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Chairperson Cheryl Erickson stated that the majority of the structure will be moved away from the water which makes it more conforming than it is currently.

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

Scott Olson made motion to find this a Type II SEQRA action and requires no SEQRA review. Second by James Dewar. **ALL AYES.**

UNFINISHED BUSINESS:

File 2017-15 AV

Tax Map # 36.15-1-8

Robert Morgan (represented by Mike Infantino)

288 East Shore Drive

Adirondack, NY

Requesting an Area Variance for a shoreline setback and a roadway setback from **Zoning Code 6.10** to build a 12' x 20' deck and move an 8' x 8' shed and a deck from the waterfront to top of bank and attach a set of stairs to the deck to sit 12' from the shoreline where 50' is required and to sit 58' from the roadway where 60' is required.

Chairperson Cheryl Erickson stated that they would now open the discussion for the Board Members and go through the Balancing Test.

Scott Olson and Chairperson Cheryl Erickson clarified that the roadway setback variance will be for 2' and the shoreline setback variance for the structure will be 38'. The stairs are part of the structure and will be 12' from the shoreline. The stairs are closer to the lake than the platform will be.

The platform is moving away from the shoreline and only the stairs which are part of the structure will be 12' from the shoreline.

Scott Olson asked what would prevent the applicant from putting the whole deck structure 12' from the shoreline.

Town Attorney Leah Everhart explained that the Board could reference the materials submitted and make that part of the language in the motion to be made. The Zoning Administrator, Jim Steen would have to approve the Zoning Compliance Certificate and if changed he would not issue the Zoning Compliance Certificate.

Chairperson Cheryl Erickson stated that the ZBA shall balance the benefit to the applicant with the detriment to the health, safety and welfare of the community.

The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicant because of the topography. The improvement to the shoreline and roadway make it safer for the owners and more esthetically appealing for the community. The hinged metal stairway is retractable so the flooding issues will not come up in the future.
2. There will be no undesirable change in the neighborhood character or undesirable change to any nearby properties because it is consistent with what is already there. It will be an improvement and the structures will be further away from the water.
3. The requested variance for the roadway is not substantial and the shoreline setback is substantial but is an improvement over what is there. The hinged stairway seems to be a temporary structure because it will be in a down position only in the summer months. The majority of the structure will be further away from the lake.
4. The request will have no adverse physical or environmental effects on the property or to neighboring properties and will improve the shoreline.
5. The alleged difficulty is self-created but that does not necessarily preclude this as a denial.

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6. This is the minimum variance necessary for these setbacks because if you minimize one it maximizes the other and helps the applicant to achieve the goals of improving the property. The shoreline setback makes the property more conforming.

Being no further questions or comments and based on the previous discussions, Scott Olson made a motion to approve the request for a shoreline setback and a roadway setback from **Zoning Code 6.10** to build a 12' x 20' deck and move an 8' x 8' shed and a deck from the waterfront to top of bank and attach it to the deck to sit 12' from the shoreline where 50' is required and to sit 38' from the roadway where 60' is required with the following conditions:

1. That the platform will remain 28' from the shoreline and no closer to the lake and allow the stairs to come down to 12' from the shoreline.
2. The landing of the stairs at the closest point to the lake be made of natural surface stone or rock not concrete or wood.

Second by James Dewar. **ALL AYES.**

PUBLIC HEARING: **File 2017-17 AV**
 Tax Map # 36.11-1-11
 Frank and Sandra Dinger
 376 East Shore Drive
 Adirondack, NY

Requesting an Area Variance from **Zoning Code 6.10** for a side yard setback for a proposed landing and stairs off of the existing deck to sit 8' where 15' is required.

Frank Dinger was present to speak about his request for this variance. He stated he had a new front deck done by Eric and Eric and he would not like to have a staircase on the deck for another way out of the house. He has limited room on his property. If he puts the stairs on the opposite side they encroach on the driveway. If he put the staircase in the front of house it blocks the windows from the lower level so the only spot is on that side. It will also provide another exit for the house.

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

UNFINISHED BUSINESS: **File 2017-17 AV**
 Tax Map # 36.11-1-11
 Frank and Sandra Dinger
 376 East Shore Drive
 Adirondack, NY

Requesting an Area Variance from **Zoning Code 6.10** for a side yard setback for a proposed landing and stairs off of the existing deck to sit 8' where 15' is required.

Chairperson Cheryl Erickson stated that they would now open the discussion for the Board Members and go through the Balancing Test.

Scott Olson stated that this is a minimal variance request. It does not encroach any more than the back corner of the house on the sideline. It would destroy the view from the basement and the other side is encroaching on the driveway.

Chairperson Cheryl Erickson stated that the neighbors are quite a ways off from the property line.

Scott Olson made a motion that this a Type II SEQRA action and no further SEQRA review is necessary. Second by James Dewar. **ALL AYES.**

Chairperson Cheryl Erickson stated that the Warren County Planning Review identified this project as having no county impacts.

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Chairperson Cheryl Erickson stated that the ZBA shall balance the benefit to the applicant with the detriment to the health, safety and welfare of the community.

The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicant because as previously discussed the stairs cannot be placed anywhere else without creating issues of safety and blocking the view from the lower level windows.
2. There will be no undesirable change in the neighborhood character or undesirable change to any nearby properties because it is consistent with other homes in the neighborhood.
3. The requested variance is substantial; however, it does not encroach any more than the back corner of the house already does on the sideline.
4. The request will have no adverse physical or environmental effects on the property or to neighboring properties.
5. The alleged difficulty is self-created but it will alleviate difficulties and make it safer.
6. This is the minimum variance necessary for this setback and it helps the goals of improving the property and creating another exit from the home.

Being no further questions or comments and based on the previous discussions, Scott Olson made a motion to approve the request for an Area Variance from **Zoning Code 6.10** for a side yard setback for a proposed landing and stairs off of the existing deck to sit 8' where 15' is required. Second by James Dewar. **ALL AYES.**

PUBLIC HEARING: **File 2017-18 AV**
 Tax Map # 36.11-1-10
 David and Kathleen Fitts
 370 East Shore Drive
 Adirondack, NY

Requesting an Area Variance from **Zoning Code 6.10** for undersized lot of 1.051 acres where 1.3 acres is required.

The Fitts's are being represented by Frank Dinger. The Fitts are selling a portion of their property to Frank Dinger. That will cause the undersized lot for the Fitts. This property is behind Frank Dinger's garage. It is a piece of property 20' x 75.5' that will be sold and increase the Dinger lot.

Scott Olson asked if this request will make any previous variances change.

Frank Dinger stated no it will increase the area behind the Dinger home where a variance was already granted. It will be a plus for Mr. Dinger.

Chairperson Cheryl Erickson stated that the Fitts lot is a substandard lot that will decrease to 1.051 acres after the 20' x 75.5' piece is sold to Mr. Dinger.

Scott Olson asked if there is currently a home on the Fitts property.

Frank Dinger stated yes and it sits down a little lower than my house.

The Board members discussed the previous variance Mr. Dinger was granted for his garage. Mr. Dinger will now increase the size of his property and be far more conforming.

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

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UNFINISHED BUSINESS: **File 2017-18 AV**
 Tax Map # 36.11-1-10
 David and Kathleen Fitts
 370 East Shore Drive
 Adirondack, NY

Requesting an Area Variance from **Zoning Code 6.10** for undersized lot of 1.065 acres where 1.3 acres is required.

Town Attorney Leah Everhart stated that this is an unlisted SEQRA action and will need to conduct an uncoordinated review with the Board.

The Board members reviewed the SEQRA form and found no significant adverse environmental impacts will occur.

Scott Olson made a motion to adopt a SEQRA negative declaration as this is an unlisted SEQRA action and an uncoordinated review was conducted. Second by James Dewar. **ALL AYES.**

Chairperson Cheryl Erickson stated that the ZBA shall balance the benefit to the applicant with the detriment to the health, safety and welfare of the community.

The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicant because it increases a non-conforming lot and takes a very small piece of property off another larger non-conforming lot. It makes things better.
2. There will be no undesirable change in the neighborhood character or undesirable change to any nearby properties,
3. The requested variance is not substantial because both lots are already undersized and will have no substantial impacts.
4. The request will have no adverse physical or environmental effects on the property or to neighboring properties.
5. The alleged difficulty is not self-created because the properties are already undersized lots. There will be no net change and the substandard lots are already existing.
6. This is the minimum variance necessary for this request, in order for the applicant to achieve his goals of improving the property.

For the record in granting this variance for an undersized lot for the Fitts property the Board members want to state that this project will alleviate some of the non-conformity on the Dinger parcel and it is not the intention of the Board for Mr. Dinger to move any structures back to the new property line.

Scott Olson made a motion to grant and approve the Area Variance from **Zoning Code 6.10** for undersized lot of 1.051 acres where 1.3 acres is required. Second by James Dewar. **ALL AYES**

Communications: **None**

Public Comments: **None**

Board Comments: **None**

Being no further comments or questions Scott Olson made a motion to adjourn the meeting. Second by James Dewar. **ALL AYES.**

Adjourn: **8:20 PM**

Next Meeting Date: December 19, 2017

Respectfully Submitted,
Terri Katsch, Secretary