

**Town of Horicon  
Zoning Board of Appeals**

**October 27, 2015  
Minutes**

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

**Also Present:** Leah Everhart, Town Attorney, Jim Steen, Zoning Administrator, Tom Jones, Bill McGhie, Planning Board Chairman, Greg Hewlett from MH Imperial Homes, Nancy and John Konczeski, 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**  
                                 **File # 2015-11 AV Tax Map # 56.5-1-7**  
                                 **File # 2015-12 AV Tax Map # 39.9-1-22**

**Pledge**

Chairperson Gary Frenz appointed James Dewar as a voting member tonight in the absence of ZBA member Charles Lewis.

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

**Review of Minutes:** Pat Farrell made a motion to approve the September 22, 2015 minutes as written. Second by Thad Smith.  
**ALL AYES.**

**NEW 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.**

Peter Palmer spoke on behalf of the proposed subdivision. Peter and his brother built the current garage back in 2007. If Peter were to pass away he wants his brother to have the garage, so he is requesting the lot be subdivided into two lots and requesting variances for lot size and roadway frontage. The garage lot proposed would be Lot 1 and there is no water or sewer on that proposed 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 an apartment. The copy of the deed is on file.

Being no further questions Vice-Chairperson Cheryl Erickson made a motion to deem the application complete and schedule a Public Hearing for November 24, 2015. Second by Thad Smith. ALL AYES.

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**NEW 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.**

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 long term plan is to rebuild the existing home and due to limited space must stay on the foot print without opportunity for expansion; therefore, requesting more square footage for storage in the garage. The homeowners are asking for a front yard setback. The garage adjacent is closer to road than this garage would be. The rear property line is not as deep as the other adjacent properties; therefore, the garage cannot move further back and needs the requested roadway setback. Jim Steen, Zoning Administrator commented that the garage on the adjacent property was given a variance for roadway setback. Bret Winchip stated that they cannot excavate into the bank without getting closer to the rear property line and possibly going over it. There is a copy of the deed on file for this application.

Cheryl Erickson requested that the Board members be provided with a copy of the satellite picture of the property at the next ZBA meeting on November 24, 2015. James Steen, Zoning Administrator stated that he would provide the Board members with measurements of the other properties in the area at the next ZBA 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.

Being no further questions, Vice-Chairperson Cheryl Erickson made a motion to deem the application complete with the addition of the satellite view of the property and schedule the Public Hearing for November 24, 2015. Second by Pat Farrell. **ALL AYES.**

**PUBLIC HEARING:**                   **File 2015-11AV**  
                                          **Tax Map # 56.5-1-7**  
                                          Thomas and Shannon Jones  
                                          7765 State Route 8  
                                          Brant Lake, NY 12815

**Variations for Dormer and Entry Porch:**

**Dormer 12' x 25' - Section 11.24 Shoreline Setback: 50' required, 0' proposed**  
                                          **Section 8.10 Roadway Setback: 50' required, 47.5' proposed**  
                                          **Section 8.10 Side yard Setback: 15' required, 9.9' proposed**  
**Entry Porch 4' x 4' - Section 11.24 Shoreline Setback: 50' required, 24' proposed**  
                                          **Section 8.10 Roadway Setback: 50' required, 31.5' proposed**

Thomas Jones spoke on behalf of his proposed requested variances for adding a dormer and covering the entry porch. The house sits right on the water's edge and is a non-conforming structure. The dormer on cape style house will allow for more light into the home and the entry porch will provide shelter over the entry way to shield snow sliding off of the roof when entering the home. There will be no other changes to the existing house.

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Chery Erickson asked Thomas Jones if he is adding bedrooms and Thomas Jones stated he would not be adding bedrooms.

James Dewar asked if the dormer is located on just one side of the home and Thomas Jones responded that is correct.

Being no further questions or comments, Vice-Chairperson Cheryl Erickson made a motion to close the Public Hearing. Second by Thad Smith. **ALL AYES.**

**UNFINISHED BUSINESS:**           **File 2015-11AV**  
                                                  **Tax Map # 56.5-1-7**  
                                                  Tom and Shannon Jones  
                                                  7765 State Route 8  
                                                  Brant Lake, NY 12815

**Variances for Dormer and Entry Porch:**

**Dormer 12' x 25'** - **Section 11.24 Shoreline Setback: 50' required, 0' proposed**  
                                                  **Section 8.10 Roadway Setback: 50' required, 47.5' proposed**  
                                                  **Section 8.10 Side yard Setback: 15' required, 9.9' proposed**

**Entry Porch 4' x 4'** - **Section 11.24 Shoreline Setback: 50' required, 24' proposed**  
                                                  **Section 8.10 Roadway Setback: 50' required, 31.5' proposed**

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

The Warren County Planning Board Review states that there is no county impact for this project.

The Board reviewed the Summary of Area Variance criteria:

The ZBA finds that variances from **Section 11.24 Shoreline setback** and **Section 8.10 Roadway setback and 8.10 Side yard 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 is very little that can be done to add to this property due to the non-conforming structure without increasing its footprint. The requests are reasonable to achieve the requested improvements.
2. There will be no undesirable change to the neighborhood character or to nearby properties. The home sits right on the lake and close to the road and one neighbor sent a written statement saying they approve of the request to update the home.
3. The request is substantial; however, it is a pre-existing non-conforming structure and hard to update without the requested variances. The property was originally built in the 1960's which predates the Town of Horicon Zoning Ordinance. This request will not push further into the shoreline and the porch is the minimal distance from the road in order to achieve the protection from sliding snow.
4. The request will not have any physical or environmental effects because they are not increasing the roof area, nor adding any bedrooms so the septic is sufficient and with the addition of the dormer and windows there will be a more esthetically pleasing view from the lake than the current roof. There is no increase in height to the home.

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- 5. The alleged difficulty was not self-created; the home is existing and the applicants want to improve the home.
- 6. If these variances are approved they will be the minimum variances necessary. There is no way to soften the effect visually from lakeside because the structure butts right up to the shoreline. Many of the houses in the neighborhood have the same situation and is in keeping with the neighborhood.

Thad Smith made a motion to approve the request as per the Boards discussion. Second by Vice Chairperson Cheryl Erickson. **ALL AYES.**

**PUBLIC HEARING:**

**FILE 2015-12AV**  
**Tax Map # 39.9-1-22**  
 Robert and Nancy Konczeski  
 13 Maine Blvd  
 Brant Lake, NY 12815

**Section 8.10 Roadway Setback: 50' required, 33.6' proposed**  
**Section 8.10 Right Side yard Setback: 15' required, 10' proposed**  
**Section 8.10 Left Side yard Setback: 15' required 9' proposed**  
**Section 8.10 Rear yard Setback: 50' required 32.2' proposed**

Greg Hewlett, builder from Imperial Homes spoke on behalf of the applicants. The proposal is for the pre-existing non-conforming duplex structure be replaced with a new single family four bedroom home with attached garage. The new home will be reducing the footprint of the existing structure. Neighbors in the HOA reviewed project and approved of the new structure. Greg Hewlett went over the map of the property with the Board Members showing the home will be moved forward further away from the rear yard setback to increase the side yard setback for the neighbor. On the other side of the property is the HOA shared septic system.

Zoning Administrator James Steen showed the Board members the map of the shared septic system, leach fields and location of the properties in the HOA. There is an inspection report from the Department of Environmental Conservation (DEC) provided to the Board members showing the results. This property is seasonal and the water and electric are shut off after Columbus Day in October each year. Zoning Administrator James Steen had a conversation with the HOA President and he is aware that if the inspections are not done in a timely manner and a failure of the system occurs it will be quite costly to replace. Meetings are held twice a year with the HOA where this issue is discussed as well as water conservation.

Greg Hewlett stated that it is typical to have a shared septic system and a pump system that allows for balancing so that you don't have heavy flows at one time and tanks have a float system to provide an even flow which prevents flooding the system.

Vice Chairperson Cheryl Erickson asked if this is a seasonal home. Greg Hewlett replied yes. Cheryl Erickson asked if they are adding more square footage space to the existing livable space and will that include a bedroom. Greg Hewlett replied no, the square footage includes a garage. The habitable living space is less.

Zoning Administrator James Steen also stated to the Board members that a few years back some tree removal was done in order to get the sun to hit the leach field area to prevent wetness.

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Zoning Administrator James Steen stated he did a lot of research and he is satisfied that this four bedroom home will not have any impact on the current septic system. There will be a water savings with updated plumbing fixtures in the new proposed single family home.

Chairperson Gary Frenz asked how old the current structure is and the homeowner explained that it was originally a storage shed built in 1939 and currently is a duplex which will now be replaced with a single family four bedroom home.

Chairperson Gary Frenz stated that the new home will improve the septic system with the new codes for water conservation.

Vice Chairperson Cheryl Erickson asked if a septic system can be placed on this property and Greg Hewlett responded that there is not enough room. The current structure has deteriorated over time so this single family home will be a big improvement to the lot.

James Dewar asked if there is a slab versus a basement. Greg Hewlett responded crawl space.

Vice-Chairperson Cheryl Erickson asked if any tree removal will be necessary. Greg Hewlett responded the natural surrounding will be protected and only one (1) tree in the front of the house will be removed for construction purposes.

Vice-Chairperson Cheryl Erickson asked if the house was moved further forward to give the neighbor more side yard room and Greg Hewlett responded it was part of the reason and the other reason being trying to get closer to a ten (10) foot side yard setback.

Thad Smith asked if the roads are maintained by the town or the subdivision. Greg Hewlett responded the subdivision is responsible for the roads in the subdivision.

Pat Farrell asked if there are any openings in the crawl space for ventilation. Greg Hewlett responded that there is a ventilation system that opens and closes automatically. There will also be a sump pit with no pump in the crawl space in case of flooding, that will not discharge to anywhere, just catch the water in the event water reaches the crawl space.

Town Attorney, Leah Everhart acknowledged receipt of requested HOA documents and confirmed ownership by reviewing the deed.

Being no further questions or comments Vice-Chairperson Cheryl Erickson made a motion to close the public hearing. Second by Thad Smith. **ALL AYES.**

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

The Warren County Planning Board Review states that there is no county impact for this project.

The Board reviewed the Summary of Area Variance criteria:

The ZBA finds that variances from **Section 11.24 Shoreline setback, Section 8.10 Roadway setback, 8.10 Side yard setback and 8.10 Rear yard 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 the original non-conforming structure is an older structure and the side yard setback on the west side is less than the side yard setback on the new proposed single family structure. This new proposed structure is a more feasible means of building the house in order to gain side yard setback that was recommended by the HOA as well.

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- The proposed rebuilding will eliminate the duplex and build a single family structure that will be brought up to code. The rear of the original wooden structure is below grade which causes dampness and rotting. With the proposed new single family home this will be corrected.
2. There will be no undesirable change in the neighborhood character or to nearby properties as this new proposed structure will be a nice improvement to the area. Two of the neighbors, the Kerwin's and the Macnamara's sent letters of approval indicating their support of the proposed structure. The new proposed single family home will bring the structure into the 21<sup>st</sup> century and will be a great improvement to the area.
  3. The request is substantial; however, given the original non-conforming nature of the structure that is presently on the property there is no way to build the proposed single family home without requiring variance requests. The new proposal will increase the distance from the side yard making it more conforming. The new proposed structure will update the current duplex and be a nice improvement.
  4. The request will not have any adverse physical or environmental effects as there will be new plumbing that will use less water and less waste. There will be a more efficient use of the water and waste systems which will put less strain on the septic system.
  5. The alleged difficulty is not self-created as the homes in this HOA are old and in need of updating and are non-conforming lots as well. It is better to rebuild than try to remodel.
  6. If approved this shall grant the minimum variance necessary with the condition that the new 4 bedroom home can share the HOA septic and water without impacting the integrity of the system.

Based upon analysis by the Town staff and DEC inspection Pat Farrell made a motion that the Board members find the replacement of the four (4) bedroom duplex with the proposed new four (4) bedroom single family home will not impact the septic system. Second by Chairperson Gary Frenz. **ALL AYES.**

Being no further questions or comments Thad Smith made a motion to close the public hearing. Second by James Dewar. **ALL AYES.**

**PUBLIC COMMENTS:**

**BOARD COMMENTS:**

Being no further discussions or questions, Thad Smith made a motion to adjourn the ZBA meeting. Second by Vice-Chairperson Cheryl Erickson. **ALL AYES.**

**Meeting adjourned 8:10 pm.**

**Next meeting:** November 24, 2015

Respectfully Submitted,  
*Theresa Katsch*, Secretary

