

**Town of Horicon
Zoning Board of Appeals**

**September 27, 2016
Minutes**

Present at Meeting:

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

Also Present: Town Attorney Mark Schachner, Paul Davies, Jamie Davies, Janet Longe, Teri Schuerlein, Town Board member Bob Olson, Planning Board Chairman Bill McGhie, Zoning Administrator James Steen, Mike Raymond and Marlene Vincent.

Agenda Items: **File 2016-05 AV Tax Map # 38-1-12**
 File 2016-06 AV Tax Map # 55.10-1-11
 Rile # 2016-04 AV Tax Map #72.13-1-8

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 Charles Lewis, James Dewar, Alternate # 2 would be seated as a voting member tonight.

Chairperson Thad Smith called the meeting to order at 7:00 p.m.

Review of Minutes: Scott Olson made a motion to approve the August 23, 2016 minutes with changes as noted. Second by Pat Farrell. **ALL AYES.**

NEW BUSINESS: **File 2016-05 AV**
 Tax Map # 38.-1-12
 Jack and Gail DeGregorio
 10 Clearwater Lane
 Brant Lake, NY 12815

Requesting an Area Variance from Zoning Code 8.10 for a 1.43 acre undersized lot in the LC 10 acre zone.
Requesting Area Variance from Zoning Code 8.10 for road frontage of 381.9 feet of road frontage where 400 feet is required

Matt Steves representing Jack and Gail Degregorio stated that the applicants own property on Clearwater Lake off of Palisades Road and they propose a few different things but he is here tonight to discuss the proposal to create a 1.43 acre undersized lot around the original homestead on the parcel on the Clearwater Lake side, called Lot 2 in LC 10 acre zone and also requesting a variance for the road frontage as they are 18.1 feet short of the required 400 feet. Matt Steves stated that he met with the APA and spoke with Tracy Darrow and another gentleman at the APA to look at the larger lot for this subdivision. Matt Steves stated that he will be meeting with the APA next week regarding the larger lot in the subdivision as the APA has issues with two abandoned spring houses and the wetlands area on the larger lot to be created. The APA has no issues with the smaller lot, known as lot 2 on the map of the proposed subdivision.

Scott Olson asked Matt Steves if he is talking about the "lands to be merged with" on the map. Matt Steves responded, no, he is referring to Lot 2 on the map, Tax Map # 38-1-12.

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Matt Steves explained the whole proposed subdivision to the ZBA Board members by going over the map.

Pat Farrell asked Matt Steves about an access road on Clearwater Lake Road for the larger lot. Matt Steves stated a lot line adjustment will be made after the subdivision and will leave access for the larger lot.

Zoning Administrator Jim Steen explained to the Board members what mergers will be done to create the subdivision proposals and that the proposal will go before Planning Board.

Town Attorney Mark Schachner brought up the necessity for an amendment to the application for a variance for road frontage which will be an 18.1 foot variance to create 381.9 feet of road frontage where 400 feet is required. The variance for road frontage was added to the application.

Scott Olson made a motion to deem the application complete and schedule a Public Hearing for October 25, 2016. Second by Pat Farrell. **ALL AYES.**

NEW BUSINESS:

File # 2016-06 AV
Tax Map # 55.10-1-11
Mike Raymond
12 Sand Beach Point
Brant Lake, NY 12815

Requesting an Area Variance for a Shoreline setback from Zoning code section 11.24 to place a 24' x 36' garage to sit 75' from the shoreline where 100' is required.

Mike Raymond, is a Planning Board member in the Town of Horicon and he expects no special consideration. He spoke about his proposed variance to place a garage on the lot that he owns. It will be seventy-five (75') off the lake and it requires a twenty-five (25') foot variance as it needs to be one-hundred (100') feet off the lake. Mike Raymond gave a history of the proposal. He applied about four or five years ago for a garage and the ZBA approved it but the APA disapproved it. They disapproved it for different reasons. Much of it was because certain questions the ZBA asked did not get into the minutes at the time and because of that the APA would not approve. The APA asked if the Board had asked if there was an alternative to placement and because it did not get into the minutes it was turned down. The other reason was the APA wanted to know if the applicant had an engineer look at the septic system because he was at the time requesting to put in a shower and toilet in the back of the garage and have living space in the upstairs. The third reason was it was only going to be thirty-seven (37') feet off the lake. Mike Raymond stated that he has now redesigned the garage, there will be no toilet or shower, no living space, no closer than seventy-five (75') feet from the shoreline, the height has been reduced by twelve (12') feet and the size is reduced to a twenty-four (24') foot x thirty-six (36') foot building.

Chairperson Thad Smith asked if there were any questions on this application.

Scott Olson asked how big the property is. Mike Raymond responded that it is 1.23 acres. Scott Olson asked if there was any other place to put the garage and Mike Raymond responded there is no place else to put garage. Anyplace else would impinge on the Right of Way and would be closer to the lake.

Pat Farrell made a motion to deem the application complete and schedule a Public Hearing for October 25, 2016. Second by Vice-Chairperson Cheryl Erickson. **ALL AYES.**

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PUBLIC HEARING: **File # 2016-04 AV**
 Tax Map # 72.13-1-8
 Janet and Frederick Longe
 71 Brant Lake Estates Road
 Brant Lake Estates, NY 12815

Requesting an Area Variance for a Shoreline setback from Zoning Code section 11.24 to place a structure at the shoreline to project 36' from the mean high water mark out into the lake where a 50' setback is required.

Paul Davies spoke on behalf of Janet and Frederick Longe's proposed variance request. After last month's meeting Paul Davies did get a chance to speak with Robyn Burgess at the APA and presented an email to the Board members on his conversation with Robyn Burgess. Paul Davies passed pictures of the structure to the Board members as well. The email explained that the proposed shown in the picture does not appear to fit the Town or Agency's definition of a "dock". If it is not a dock the proposed would be a structure subject to the shoreline setbacks and in need of a variance.

Scott Olson still has some confusion as to why we are calling this a structure and not a dock.

Town Attorney Mark Schachner clarified why this has to be considered a structure. An applicant cannot seek a variance from a definition. If the Town of Horicon regulated docks differently without having a width in the definition then you could seek a variance for a dock. There is a definition for a dock that states docks can be no more than six (6') feet in width so it cannot be considered a dock and must be considered a structure instead of a dock. The applicant is seeking a variance for a structure from the shoreline setback.

Thad asked if there are any other questions.

Chairperson Thad Smith introduced a letter into the record from Elizabeth Ferentz, an adjoining owner who is opposed to the Longe structure. The Longe's asked to read the letter and the letter was given to Paul Davies.

Paul Davies stated that they notified their neighbors and stated they all have a positive response to the request for the structure. Marlene Vincent, an adjoining owner of property within a five-hundred (500') foot buffer of the Longe's, who is present at the meeting, stated her support for the requested structure as well.

Paul Davies stated that 30% of people around the lake have structures in this configuration and size. This structure does not restrict views of the neighbors, it fits in with the environment and the property is well maintained. This was bought back in 2010. At the time of purchase of the ten (10') foot widths he spent \$8,000 and he was not notified of any restrictions by dock vendor.

Scott Olson asked if this configuration in the application was the dock he purchased from Bernie Hill. Paul Davies stated yes and he did not realize this configuration was in violation. The local dock vendor did not notify the applicant of any restrictions.

Pat Farrell sympathizes with the applicant however, this structure is not conforming to the Town of Horicon regulations.

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Vice-Chairperson Cheryl Erickson asked if this dock is interlocking and can it be put in different configurations. Paul Davies referred to the configurations and emails that were submitted with the application. Paul Davies stated that the hardship is that this is an aluminum structure that just can't be cut off. Scott Olson stated you can eliminate pieces very easily. Vice-Chairperson Cheryl Erickson stated that it can be reconfigured.

Chairperson Thad Smith was handed a petition signed by neighbors submitted by Paul Davies to keep the existing structure the way it is now.

Vice-Chairperson Cheryl Erickson asked if we could get a map of where these people live in proximity to the applicants. Are they adjoining, across the lake, down the road? Paul Davies stated that they live around the lake. His neighbors are not on the petition.

Paul Davies stated that there was another structure very much larger than his approved at last month's ZBA meeting.

Pat Farrell stated the one application approved at the previous ZBA meeting was approved because it was over a pre-existing structure. It was granted because it was pre-existing.

Janet Longe stated that people comment all the time how nice their property looks and she feels they are being singled out.

Paul Davies wanted to know who provided Jim Steen with the information on what was purchased and the cost. Zoning Administrator Jim Steen stated it was received from Bernie Hill.

Zoning Administrator Jim Steen stated that he disagrees with the statement by Paul Davies that 30% of others around the lake have the same dock configuration. Zoning Administrator Jim Steen stated they were not singled out and explained that all Zoning Violation letters contain information on enforcement of code violations.

Scott Olson made a motion to close the Public Hearing. Second by Vice-Chairperson Cheryl Erickson. **ALL AYES.**

Town Attorney Mark Schachner stated that once the Public Hearing is closed the Board has sixty-two (62) days at the close of the Public Hearing to take action.

Vice-Chairperson Cheryl Erickson asked that at next month's meeting, on October 25, 2016, a map be provided to the Board showing the location of the properties of the people who signed the petition that Paul Davies submitted into the record.

Chairperson Thad Smith asked Zoning Administrator Jim Steen if this application will be submitted to the APA as a variance for a shoreline setback. Zoning Administrator Jim Steen stated that once any variance application is approved it goes to the APA for review.

A discussion ensued by The Board members regarding precedents being set, whether there are other configurations, options or hardships. The Board also discussed if any other applications were submitted that are similar to this request and if they were approved or denied.

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Chairperson Thad Smith stated to Paul Davies that The Board is trying to work with the owners and not against them.

Scott Olson stated he is concerned with precedents being set. Vice-Chairperson Cheryl Erickson and Chairperson Thad Smith asked if the Zoning Office could find out if there were other dock/structure approvals similar to this structure being denied or approved.

Town Attorney Mark Schachner stated that looking at past decisions is good exercise when concerned with precedents being set and is very appropriate.

Scott Olson suggested to the Board members they put this proposed application off until next month while further investigation is done into past decisions on similar requested applications.

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

PUBLIC COMMENTS: None

BOARD COMMENTS: None

Meeting adjourned 8:15 pm.

Next meeting: October 25, 2016

Respectfully Submitted,
Theresa Katsch, Secretary