

**Present:**

Gary Frenz, Chairman

Cheryl Erickson, Vice-Chair

Priscilla Remington

Carl Heilman

Bob Miller, Alternate

Charles Lewis, Alternate

**Also Present:** Mike Hill, Esq. Town Attorney

James Steen, Zoning Administrator

Bill McGhie, Planning Board Member

Bob Olson, Town Board Member

Teri Schuerlein, Planning Board Member

Robert Miller, Alternate Member

John and Ann Hall, Lynn Miller, Russell Howard, Howard Amann, Tom Johansen, Howard Lebowitz, Attorney Dan Smith, Gayle Baker, Troy Scripture, Jeff Clark, Paul Schuerlein and Jason Hill

**Agenda Items: File #2013-113AV Tax Map 72.13-1-35 Lebowitz, Howard**

**File #2013-12AV Tax Map 55.10-1-9 Vandevander, Anne**

**File# 2013-13AV Tax Map 55.14-1-7 Asheim, Erling**

**File #2013-06AV Tax Map 55.10-1-4 Hall, John and Ann**

**File# 2013-09AV Tax Map 37.-1-27.1 Young, Monica Jean**

**File# 2013-07AV Tax Map 106.-1-4.2 Meyer, Carol**

The regular meeting was called to order by Chairman, Gary Frenz at 7:00PM.

**Minutes:** June minutes not available at this time

**NEW BUSINESS:**

**File # 2013-11AV**

**Tax Map #72.13-1-35**

**Howard Lebowitz**

**6957 State Route 8**

**Seeking a 50 foot Shoreline Setback variance where 50 feet is required to construct a four foot by one hundred fifty foot boardwalk thru wetlands to access dock**

Howard Lebowitz states he owns a .64 acre parcel on State Route 8, his home sits on a hill; the bottom of his property toward the lake is about one half wetlands except a unmowed boat path. Howard Lebowitz continued on to say that he has an application in to the APA and is working with a wetland biologist. He says the APA has no issues with the construction of a proposed boardwalk extending over the wetlands contingent upon getting approval from the Zoning Board of Appeals. Howard Lebowitz provided the Zoning Board with schematics showing two construction versions of the proposed boardwalk his decision of which version is dependent upon final pricing.

Jim Steen states he had met with Howard Lebowitz and Tracy Darrow from the APA continues on to state there is no other way to get to newly constructed floating dock without placing boardwalk over boat path.

Carl Heilman asked if the wetlands could be filled as they once had been rather than constructing the boardwalk

Jim Steen states The APA prefers the proposed boardwalk rather than fill because the wetlands in that area are rejuvenating so the APA would prefer to cross over the wetland area

Howard Lebowitz states that he consulted with the Army Corps of Engineers to see if fill was an option but determined that the boardwalk would be a better solution.

Jim Steen states that he spoke to the APA about fill as well, core samples were taken and it was determined that there was not enough fill placed on the property in the past

Being no further questions or comments Cheryl Erickson made a motion to deem the application complete and schedule a public hearing for August 27, 2nd by Thad Smith. All Ayes.

**File # 2013-12AV**

**Tax Map 55.10-1-9**

**Vandevander, Anne**

**720 Palisades Road**

**Seeking an after the fact 91 foot Shoreline Setback Variance where 100 feet is required for a 4 foot by 33 foot wooden walkway with railings**

**RESCHEDULED TO NEXT MONTH**

**File#2013-13AV**

**Tax map 55.14-1-7**

**Asheim, Erling**

**601 Palisades Road**

**Construction of a 4 foot by 12 foot divider fence and a 3 foot by 18 foot picket fence**

Jim Steen states that initially he thought the Asheim project needed a Roadway setback variance in which it does not but it does require a Shoreline setback variance and an additional variance according to Section 11.10 #8 of the Zoning Law, any fence within 40 feet of the center line of any road shall be see thru design applies to the 4 foot by 12 foot divider fence only and not the 3 foot by 18 foot picket fence section

Erwin Bradway states that constructions of fences are required because the heavy rains washed out the existing 50 year old stone wall and natural buffer of trees. The stone wall was replaced by a cement retaining wall. The proposed construction of the 4 foot by 12 foot long divider fence and 3 foot by 18 foot long see thru picket fence will be placed on top of the pre-existing retaining wall with a 6 foot drop off for safety reasons

Many conversations ensued regarding property line, property detail and see thru fence design

Carl Heilman suggested an explanation be required by the applicant to clarify the strict application of the area variance and practical difficulty

Erwin Bradway states that he is not sure how to answer strict application practical difficulty question as he is new to this zoning board process. Erwin Bradway continues on to state that ropes are in place of the proposed fence at present as it is a safety hazard without them, which was recommended by Zoning Administrator Jim Steen

Being no further questions or comments Thad Smith made a motion to deem the application complete and schedule a public hearing for August 27, 2nd by Cheryl Erickson. All Ayes.

**Public Hearing**

**File # 2013-06AV**

**Tax Map 55.10-1-4**

**John and Ann Hall**

**736 Palisades Road**

**74 foot shoreline setback variance where 100 feet is required and a 5 foot 6 inch side-yard setback variance where 15 feet is required to build a new home**

John Hall stated he was there to make 3 points this evening as he had been before the Zoning Board several times regarding this project. When John and Ann Hall had considered purchasing the property on Palisades Road they knew the camp had to be demolished because it was in disrepair, they contacted the present Zoning Administrator Gary McMeekin and received a letter, which was distributed to the Zoning Board. The letter was on Town of Horicon Zoning Office letter head and was dated August 20, 2012 regarding Tax Map 55.10-1-4. The letter states the structure located at 736 Palisades Road in Brant Lake, NY was considered a non-conforming structure. This structure may be demolished and re-built on the existing footprint with a maximum height of 40 feet, signed by Gary McMeekin, Zoning Administrator. John Hall contacted Ruben Caldwell an architect friend who created a design of a proposed house for John and Ann Hall, the proposed structure is 34 feet tall, only 6 feet 6 inches taller than their existing home which is 27 1/2 feet tall, Ruben Caldwell's design has a shed roof which is lower in design than a peak roof. The proposed house has interesting angles and more attractive looking from the lake. John Hall stated that he

thought there may be some misunderstanding in the last meeting that he should tear down the existing structure and rebuild, John Hall continued on to say that his understanding of

the zoning ordinance was that the Zoning Board did not have the power to force him to relocate his entire structure to the North, further away. John Hall continued on to say that the most important factor is that he meet the five criteria per Section 16.40 Requirements for granting variances of the zoning law. John Hall reviewed the criteria:

- 1.) Preserve and protect the same character of the neighborhood. The requested variance will not alter the essential character of the neighborhood
- 2.) John Hall explained how his lot is narrow and that his new home could not be built in different location that he would be building home on same footprint of present home which is grandfathered in. Home was built in 1963. His new home would be no closer to lake and does not exceed maximum height limitation even if solar panels are placed on roof. Environmental condition would be improved with change to present septic. John and Ann Hall are placing a NORWECCO system in place of 50 gallon drum. Felt that requested variances were substantiated. Minimum Needed
- 3.) Not Self- Created-14 years before zoning ordinance. John Hall stated that the existing home was built in 1963 prior to zoning and is 26 feet from the shoreline, would like to utilize just the existing footprint, building a new home, adding a garage, mud room along with a second story. The passage of time and law makes something illegal it is not self-created
- 4.) Addressed his neighbor's concerns about trees. John Hall states that no trees would be cut to accommodate his plans for construction. John Hall asked for the board to be fair as they evaluate decision on approving variances, based on a balancing act of considering all criteria, some criteria stronger than others

John Hall states is passionate about this project and apologizes to the board ,the Clark's and Raymond's if he has said anything disturbing to them, continues on to state that the Zoning Board has options that the Board can approve or deny his application or approve with some changes. John Hall states he is willing to make whatever changes that the board suggests. The Planning Board had made a suggestion about relocating his garage so John Hall contacted Bernie Bolton about grading the driveway because there was some concerns about the garage being too tall and blocking the view

Carl Heilman asked John Hall about the existing house and the new portion of the structure

John Hall states the Lakeside, South and North side will remain exactly the same, built on the same footprint and the same foundation, the house will be no closer to the lake. The only change to take place will be on the west side where the septic system,50 gallon drum, is located and there will have to replace that part of the foundation in that area to accommodate for removing the gray water pit and putting in the NORWECCO system

Cheryl Erickson asks John Hall if they have to extend the footprint on the west side will that bring you into the side yard setback

John Hall responds no, originally a sliver of the garage was in the 15 foot setback setback but the Planning Board suggested moving the garage and that is what they have done

Cheryl continues on by asking about when they dig up 50 gallon drum put in NORWECCO system and compromise the foundation will that put you into the 15 foot yard setback

John Hall responds No

Attorney Mike Hill asks John Hall for clarification on the 5% of the foundation that might be replaced when putting in the septic system, was it his intention to put the replacement foundation in exactly where the existing foundation was located

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John Hall says a bedroom will sit on that newly replaced foundation and that is where a bump out of the proposed house is, the plan is to extend out 3 feet to the west to make that bedroom bigger. Asks the Zoning Board for their permission as long as they have to replace the foundation can they extend it three feet

Attorney Mike Hill asks for clarification on the garage and states that he understood that the proposed garage could be located so that no variance would be necessary

John Hall responds by saying that moving the garage eliminates the 15 foot setback but it still violates the 50 foot road and the 100 foot lake setback, still needs two variances

Attorney Mike Hill responds by stating that the entire structure including the garage needs a shoreline setback in addition the setback from the road coming from the opposite direction

John Hall states no new construction will need 15 foot side setback

Many conversations taking place discussing the Hall project

Jim Steen states the proposed property still needs side setback variance and read section 15.10 to the board. Jim Steen continued on to state the variances requested are necessary because the proposed new home is being altered, enlarged and extended.

Attorney Mike Hill suggested for Jim Steen to clarify for the record any need for a road setback variance Jim Steen stated that the proposed building meets the requirements and does not need a road setback variance

Jeff Clark stated that the drawings are for the Zoning Board approval only and not for construction only, the applicant's architect is not a licensed engineer. Jeff Clark continued in length to speak about the 50 year old foundation, hardship not being self-created and possibly moving house back further to the North, requesting John Hall not diminish the value of his adjoining property and the applicant has other alternatives to build. Jeff Clark presents to the board a letter from a NYS Appraiser that states that John Hall's proposed structure will decrease his property value

Gary Frenz asks Jeff Clark if this appraiser actually visited the property Jeff Clark responded by saying the appraiser would visit the property if necessary but had not done so

Cheryl Erickson asked Jeff Clark the dimensions of his lot and the size house he had proposed building, Jeff Clark responded by saying 40 feet across 27 ½ feet deep. Cheryl Erickson suggested that the Clark's build a two story house so that he could be elevated above the Hall's property and restore their view

Lengthy discussion ensued regarding trees, property lines, height, views, newly proposed building on lot and pictures of area

Attorney Mike Hill asks the board members if they have all the information on this project and suggests the board members work off a written draft decision and if any members had not visited the property suggested they do so.

Cheryl Erickson made a motion to close the public hearing. 2<sup>nd</sup> by Priscilla Remington. ALL AYES

## **PUBLIC HEARING**

File #2013-09AV

Tax Map 37.1-1-27.1

Monica Jean Young

**APPLICANT REQUESTS:**

1. A density variance for lot #5 which consists of 8.077 acres where 10 acres are required for a variance of 1.923 acres
2. A roadway frontage variance for lot #5 which consists of 317 feet where 400 feet is required for a variance of 83 ft
3. A roadway frontage variance for lot #4 which consists of 331 feet where 400 feet is required for a variance of 69 ft

Attorney Dan Smith representing the applicant explains the proposed five lot subdivision stating that lot #3 will be sold to an adjoining owner Langworthy

Discussion ensued regarding expansion of lot #5 to create a larger lot without requiring a variance and an easement across woods road

Jason Hill indicated that he would prefer not to grant an easement thru lot 5 to lot 4 or make lot #5 larger

Attorney Mike Hill stated the APA will be looking at the more stringent requirements of the 10 acre zone and asked if the board received any correspondence on proposed variance request

No correspondence was received either for or against this project

Being no further questions or comments Cheryl Erickson made a motion to close the public hearing for, 2nd by Priscilla Remington . All Ayes.

**Unfinished business**

File# 2013-09AV  
Tax Map 37.-1-27.1  
Monica Jean Young

**APPLICANT REQUESTS:**

1. A density variance for lot #5 which consists of 8.077 acres where 10 acres are required for a variance of 1.923 acres
2. A roadway frontage variance for lot #5 which consists of 317 feet where 400 feet is required for a variance of 83 ft
3. A roadway frontage variance for lot #4 which consists of 331 feet where 400 feet is required for a variance of 69 ft

The board reviewed the criteria:

**1. A density variance for lot #5 which consists of 8.077 acres where 10 acres are required for a variance of 1.923 acres**

1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties as there are pre-existing non-conforming lots in area. This is a residential area of single family dwellings

2) The benefits sought by the applicant could not be achieved by any other means because it would require extending the property line to make the parcel 10 acres which would cut off an access road. In addition it would create a hardship for property owner because of easement issue, road provides access to adjacent property to the north owned by family which not normally accessible. The board discussed extending the property line sideways to create a 10 acre parcel but

agreed that it would create a parcel with an irregular shaped property line. Board agreed this was not the most practical or feasible means to gain two acres

3) The requested variance is not substantial because the reduction is less than 20 percent of the requirement of 10 acres. A very small percentage in the rural use 8.5 acre zone under APA criteria

4) There is no adverse effect or impact on the physical or environmental conditions in the neighborhood as the area is residential in nature and there are no wetlands on the property

5) The alleged difficulty is self-created because it would require extending the property line it would require extending the property line to make the parcel 10 acres which would cut off an access road. In addition it would create a hardship for property owner because of easement issue, road provides access to adjacent property to the north owned by family which not normally accessible. The board discussed extending the property line sideways to create a 10 acre parcel but agreed that it would create a parcel with an irregular shaped property line. Board agreed this was not the most practical or feasible means to gain two acres to make the parcel 10 acres which would cut off an access road. In addition it would create a hardship for property owner because of easement issue, road provides access to adjacent property to the north owned by family. The board discussed extending the property line sideways to create a 10 acre parcel but agreed that it would create a parcel with an irregular shaped property line. Board agreed this was not the most practical way to get two acres

6) The proposed lot shape will result in the minimum variance necessary to create a regularly shaped lot providing owner with access to adjacent property to the north

**2. A roadway frontage variance** for lot #5 which consists of 317 feet where 400 feet is required for a variance of 83 feet

**3. A roadway frontage variance** for lot #4 which consists of 331 feet where 400 feet is required for a variance of 69 feet

1) There will be no undesirable change to the character of the neighborhood because or detriment to nearby properties because there are smaller lots with less frontage in the general vicinity

2) The benefits sought by the applicant could not be achieved by other means as the total frontage of lots 4 and 5 is 648 feet (lot #4 is 331 feet, lot #5 is 317 feet), this is aprox. a 50 percent split of the two lots. The frontage of both lots are located in the 5 acre zone where 400 feet is required

3) The requested variances are not substantial because the proposed frontage will be more than 75 percent of the requirement in the 10 acre zone and exceeds the requirement in the 5 acre zone where all the frontage exists

4) There is no adverse effect or impact on the physical or environmental conditions in the neighborhood because the two road frontage variances take advantage of site differences. It is an effort to align with lines of site. It provides enough road

frontage to provide for driveway access. There are other lots in the area with 300+/- feet of road frontage

5) The alleged difficulty was not self-created

6) This is the minimum variance necessary as the proposed frontage will be more than 75 percent of the requirement in the 10 acre zone and exceeds the requirement in the 5 acre zone where all the frontage exists, this a small percentage of the required 400 feet per lot.

The board reviewed the SEQRA form. Carl Heilman made a motion to declare a negative declaration, 2<sup>nd</sup> by Thad Smith. All Ayes.

Cheryl Ericson made a motion to approve the 5 lot subdivision as discussed, 2<sup>nd</sup> by Carl Heilman. All Ayes.

**PUBLIC HEARING**

File# 2013-07AV

Tax Map106.1-4.2

Carol Meyer seeking area variance for a proposed subdivision

**APPLICANT REQUESTS**

1. A density variance for lot #1A which consists of 3.66 acres where 5 acres are required for a variance of 1.34 acres
2. A density variance for lot #1B which consists of 4.06 acres where 10 acres is required for a variance of 5.94 acres
3. A density variance for lot #3A which consists of 2.57 acres where 5 acres are required for a variance of 2.43 acres
4. A density variance for lot #3B which consists of 2.57 acres where 5 acres are required for a variance of 2.43 acres

Surveyor Russ Howard speaking on behalf of Carol Meyer project. Carol Meyer would like to split 2 lots and make 4 lots because she feels it would make the lots more saleable

Troy Scripture spoke in opposition to the Carol Meyer project

Meeting adjourned at 10:00 pm

Cheryl Erickson made a motion to leave Carol Meyer public hearing open. 2<sup>nd</sup> by Carl Heilman. All Ayes

Respectfully Submitted.

*Dorothy Johnson, Secretary*



