

**Town of Horicon
Zoning Board of Appeals**

**September 26, 2017
Minutes**

Present at Meeting:

Cheryl Erickson, Chairperson
Gary Frenz
Pat Farrell
Scott Olson
James Dewar

Also Present: Town Attorney Leah Everhart, Maryann Polhemus, Doreen Niese, Heidi Gross, Trinity Gross, Frank Dinger, Joseph Brand, Susan Brand, Bob Olson, Janice Howard, James Schillinger, and James Steen.

Agenda Items:	File 2017-15 AV	Tax Map # 36.15-1-8
	File 2017-16 AV	Tax Map # 88.7-1-14
	File # 2017-12 AV	Tax map 88.7-1-14
	File 2017-13 AV	Tax Map # 39.9-1-20.2
	File 2017-14 AV	Tax Map # 36.11-1-11

Pledge

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

Review of Minutes: Scott Olson made a motion to accept the August 22, 2017 minutes with correction as noted on page five. Second by Pat Farrell. **ALL AYES.**

NEW 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 from waterfront to top of bank and attach it to the new deck to sit 20' from the shoreline where 50' is required and to sit 47' from the roadway where 60' is required.

Mike Infantino who represents Robert Morgan on this project was not present at the meeting. Chairperson Cheryl Erickson suggested the Board move to the next application and if Mr. Infantino shows up the Board will consider the Robert Morgan request for a variance. **ALL AYES.**

NEW BUSINESS:

File 2017-16 AV
Tax Map # 88.7-1-14
 Joseph Brand
 57 New Street
 Brant Lake, NY 12815

Requesting an Area Variance for a shoreline setback from **Zoning Code 6.10** for a fence to sit 39' from the shoreline where 100' is required. Also requesting a variance from **Zoning Code 8.12 A. 5** that states any fence within 40' of the center of any road shall be of see-through design. Mr. Brand is requesting the variance for a non-see-through fence design. **(All three (3) fences).**

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Joe Brand stated that he would like to build a fence on his property.

Chairperson Cheryl Erickson asked if this is replacing an old fence.

Joe Brand stated an area of it.

Chairperson Cheryl Erickson asked if there is a map for this variance request or are they using the other map submitted for the other variance Joe Brand is requesting. Zoning Administrator Jim Steen stated no, there are new maps and they were passed out to the Board members along with pictures of the fences.

Zoning Administrator Jim Steen then explained the maps and the pictures to the Board members for clarification. Two sections of the fences down by the water (stockade) 8' x16' non-see through design are less than 100 square feet and exempt from the shoreline setback. A new portion of fence, non-see through design that is 8' to 10' high x 23' 9" is subject to the shoreline setback.

Chairperson Cheryl Erickson asked if this is an after the fact variance.

Zoning Administrator Jim Steen stated that Mr. Brand was building the fence and Jim Steen stopped him and gave him a copy of the Zoning regulations. Mr. Brand was almost done so Jim Steen made him turn the fence around because the finished side of fence must face the neighbor. Mr. Brand did turn the fence around to comply with the regulations. The non-see through design applies to all sections of the three (3) fences.

Scott Olson made a motion to deem the application complete and set a Public Hearing for October 24, 2017. Second by Pat Farrell.
ALL AYES.

Chairperson Cheryl Erickson stated that no one came in for the Robert Morgan application so it was decided to table the application until the next meeting on October 24, 2017.

Zoning Administrator Jim Steen gave the Board members an overview of this project and the Board decided that there is an insufficient site plan and no photos. The Board members would like a site plan to scale showing all existing structures on the lot and boundary lines as well. Photos are also requested.

Gary Frenz made a motion to table this application until the next meeting on October 24, 2017 with additional paperwork as requested. Second by Scott Olson. **ALL AYES.**

PUBLIC HEARING: **File 2017-12 AV**
 Tax Map # 88.7-1-14
 Joseph Brand
 57 New Street
 Brant Lake, NY 12815

Requesting an after the fact Area Variance for a shoreline setback, a roadway setback and side yard setback from **Zoning Code 6.10** for a screened porch and addition to sit 80.4' from shoreline where 100' is required, to sit 47.4' from the roadway where 60' is required and to sit 11.2' from the side yard where 15' is required.

Joe Brand spoke about his proposed variance. Joe Brand stated he took something down and started to replace it with a screen porch and connecting deck and is now aware that he needs permits. Joe stated he purchased the home in August 2016 from Marvin Kipp and he purchased everything on the property, sheds that were falling apart and a 1947 travel trailer that was entombed in a shed. He redid the pump house on the property and took down another shed.

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Chairperson Cheryl Erickson stated so one shed was removed that entombed the trailer and another shed removed is now a screened porch.

Scott Olson asked if the trailer is there now.

Joseph Brand stated yes it is there and working. He would like to have that removed as well.

Scott Olson stated that what needs to be approved are after the fact variances for the screened porch and addition.

Doreen Niese a neighbor of the Brands stated that the sheds were eyesores and she feels the work the Brands are doing enhances the property and does not take away from the property at all. It does not take away from any view either.

Heidi Gross a neighbor as well stated that the work being done is an asset to the structure and improving the neighborhood. She thinks the street will look awesome.

Gary Frenz stated that we received the Warren County Planning Department Review that states there will be no county impact on County properties or resources.

Being no further questions or comments Gary Frenz made a motion to close the Public Hearing. Second by Pat Farrell. **ALL AYES.**

UNFINISHED BUSINESS: **File 2017-12 AV**
 Tax Map # 88.7-1-14
 Joseph Brand
 57 New Street
 Brant Lake, NY 12815

Requesting an after the fact Area Variance for a shoreline setback, a roadway setback and side yard setback from **Zoning Code 6.10** for a screened porch and addition to sit 80.4' from shoreline where 100' is required, to sit 47.4' from the roadway where 60' is required and to sit 11.2' from the side yard where 15' is required.

The Board reviewed the Area Variance criteria:

Chairperson Cheryl Erickson stated that the Board would now go ahead and discuss the Balancing Test to balance the benefit to the applicant with detriment to the health, safety and welfare of the community. This review will apply to all three (3) variance requested for shoreline, roadway and side yard setbacks.

The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicant because it's a dead end street with small lots. Based on the small configuration of the lot and the steepness of the lot in the back of the home, there are not a lot of options to achieve the goal of the applicant which is to improve the lot.
2. There will be no undesirable change in the neighborhood character or undesirable change to any nearby properties because it is appropriate for that neighborhood and two adjoining owners spoke in favor of the improvements.
3. The requested variance seems to be substantial numerically; however, taking into consideration the constrictions on the property with the pre-existing non-conforming structures, the one lane road, and the small area with not much room to work in given the characteristics of the property it is not substantial.

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4. The request will have no adverse physical or environmental effects on the property or to neighboring properties because there will not be any tree removal and it is just connecting the pre-existing non-conforming buildings on the property which is still on the original footprint.
5. The proposed project is not self-created because the applicant is just trying to work within the pre-existing non-conforming structures on an old structure to make improvements.
6. This is the minimum variance necessary for all three setbacks, shoreline, roadway and side yard in order for the applicant to achieve his goals of improving the property. It is pre-existing non-conforming prior to 1977.

Being no further questions or comments and based on the previous discussions, Gary Frenz made a motion to approve an after the fact Area Variance for a shoreline setback, a roadway setback and side yard setback from **Zoning Code 6.10** for a screened porch and addition to sit 80.4' from shoreline where 100' is required, to sit 47.4' from the roadway where 60' is required and to sit 11.2' from the side yard where 15' is required. Second by Scott Olson. **ALL EYES.**

PUBLIC HEARING: **File 2017-13 AV**
 Tax Map # 39.9-1-20.2
 Ken and Arlene Miller
 31 Maine Blvd.
 Brant Lake, NY 12815

Requesting an Area Variance for a road setback, rear yard setback and a side yard setback from **Zoning Code 6.10** for an addition to sit 38' from centerline of road where 60' is required, 21' from the rear where 50' is required and to sit 8' from the side yard where 15' is required.

James Schillinger is the builder for the Millers and stated they are going for variances for an addition to a summer camp. The rear setback has woods behind it and the nearest camp is 100' away. The roadway setback is a setback from a one lane dirt road in a private community that is now a road because of emergency services. The side setbacks he tried to rework however the way it is now is the closest it can come to the variance requested. They own two pieces of property that the road cuts in half. James Schillinger passed out pictures for the Board to review.

Chairperson Cheryl Erickson asked if that is a shed behind the addition and James Schillinger stated that it is not a shed and there is nothing behind the addition. He does not know what that square indicates. There is a fire pit there.

Chairperson Cheryl Erickson asked what the square footage of the existing house and the square footage of the addition and is there a second floor in the house now.

James Schillinger stated that there are cathedral ceilings now and no second floor. The addition will have a second floor that will be about 3' higher than the existing cathedral ceilings now. A 10 x10 room is going up in the addition on the second floor and a staircase to get up to the second floor. The porch is just an open deck.

Scott Olson stated that the top floor would be about 572 square feet and addition below is about 327 square feet so about 800 square feet.

Chairperson Cheryl Erickson stated then that almost doubles the size of the house. She also asked if they would be obscuring the neighbors behind from any view.

James Schillinger stated they do not have any view there.

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James Schillinger stated that the backyard is completely open now they just have to dig rocks out. No trees will have to be cut.

Pat Farrell asked James Schillinger if any trees have to be cut because the letter received from Stuart Mead, Jr. indicated that many mature trees will have to be cut.

James Schillinger stated that no trees would have to be cut and two of the other neighbors in attendance agreed that no trees would have to be cut at all. They all stated that what is in the letter from Stuart Mead, Jr. is incorrect.

Chairperson Cheryl Erickson mentioned another one of the letters received from Frank Venezia, President of the Mead's Homeowner's Association that stated the Miller's did not receive approval from the Homeowner's Association for the proposed construction.

James Schillinger stated that he was unaware he needed their approval first. He thought he would get the approval from the Town of Horicon and then go to the Homeowner's Association for their approval.

Janice Howard an adjoining owner of the Miller's strip of property across the road that is not able to be built upon stated that 35 years ago she was able to build her home on that side of the road and that the Miller's pay the same taxes as her and are not able to build anything on that side of the road which seems unfair. She is in favor of the Miller's proposed addition to their home.

Cheryl Erickson asked if James Schillinger had the opportunity to read the letters that were received opposing and in favor of this project.

James Schillinger stated that he did not have the opportunity to read any of them.

The letters were given to James Schillinger to read. After reading the letters he stated that some of them are incorrect. The stone wall in front of the house will not be affected at all. The addition will be in the back of the home and the stone wall is in the front. One of the letters from Stuart Mead, Jr. stated that it would make it difficult for boat trailers to traffic through in the summer season. James Schillinger stated that this makes no sense because the addition is in the back not the front. Boats do not go through the Miller's backyard.

James Dewar asked if Maine Blvd. is plowed in the winter time and James Schillinger stated no it is not plowed.

Chairperson Cheryl Erickson invited Mrs. Pohlemus an adjoining neighbor to the Miller's property to speak. She is also the adjoining owner to the Konczeski's who received a variance for a porch that did change the character of the neighborhood. Mrs. Pohlemus does have an objection to the proposed addition. She would like to see the addition moved the other way but realizes it is not possible due to the propane tanks and rocks. It would be easier to put it on the line of the camp and build out from it. It will not destroy her view of the lake; however, it will obstruct her view of the trees on the other side of her home because she will see the solid wall going out 20 feet. She has concerns that the excavating company will cut across the front of her property to reach the Miller's backyard for excavating purposes.

James Schillinger stated that the excavating company now states that they will build up the area in front of the stone wall in front of the Miller's property and go over the stone wall to get to the back of the Miller's property and will not have to go across the Pohlemus property.

Scott Olson stated that the two plans submitted do not match. One shows the deck and one does not show the deck.

Chairperson Cheryl Erickson asked Zoning Administrator Jim Steen if the deck has a permit.

Zoning Administrator Jim Steen responded no it does not have a permit.

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Because the Board members do not have an accurate description of the existing structures and due to the discrepancies on the plans the Board decided that they do not have enough correct information to continue with this application and need further information. They would need to know the dimensions and scale of the deck that was not included in one of the plans. They would like a site plan prepared by a professional engineer drawn to scale to include dimensions of the lot, what is existing and proposed, square footage of proposed addition up and down and square footage of existing house, porch and deck.

Scott Olson made a motion to table the Public Hearing until the additional scaled information is received. The Public Hearing will be left open and continued at the next ZBA meeting on October 24, 2017. Second by Pat Farrell. **ALL AYES.**

UNFINISHED BUSINESS: **File 2017-13 AV** **Public Hearing open until October 24, 2017 ZBA meeting**
Tax Map # 39.9-1-20.2
Ken and Arlene Miller
31 Maine Blvd.
Brant Lake, NY 12815

PUBLIC HEARING: **File 2017-14 AV**
Tax Map # 36.11-1-11
Frank and Sandra Dinger
376 East Shore Drive
Adirondack, NY

Requesting an AV for a rear yard setback for a proposed garage and a side yard setback for a relocated shed, from **Zoning Code 6.10** for a garage to sit 2' from the rear of the property where 22.5' is required and a relocated shed to sit 3' from the side yard where 15' is required.

Frank Dinger was present to speak about his proposed project. He is looking for a variance for a setback to put a garage behind the house. There is no other place to put it because the property is so narrow. He cannot put it in the front because his septic system and leach fields are there. The side would need setbacks and it's too steep there.

Scott Olson asked Frank Dinger if he could move it forward. Frank Dinger responded no because it would narrow the space between the corner of the house and the garage. There is not much level ground up there.

Frank Dinger stated that the home was finished by the previous owners done by Eric and Eric in 2015 and a new septic was done by Winchip Engineers. A variance for the septic was necessary because of the separation distances from the well.

Chairperson Cheryl Erickson asked if the septic was in front of the house.

Frank Dinger responded yes, it is in the front of the house.

Chairperson Cheryl Erickson asked if he had any garage at all.

Frank Dinger responded no he does not currently have a garage and this will be his permanent residence and he wants a garage.

Scott Olson asked if these are two separate variances one for the garage and one for the shed.

Frank Dinger responded yes, he has an existing shed that he wants to move forward; however it will be no closer to the side yard than it is now.

Scott Olson asked what the size of the shed is.

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Frank Dinger responded it is 8' x 10' with a lean to that sits 3' from the side yard and will remain 3' from the side yard once moved.

Scott Olson asked if we received any correspondence from any neighbors in opposition to this proposal. There was no correspondence received in opposition.

Chairperson Cheryl Erickson asked if there are any structures on the neighbor's property behind where Mr. Dinger wants to place his garage that may be impacted by the garage.

Frank Dinger responded no, the neighbor's home and shed will not be impacted at all by the placement of his garage nor his shed.

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

UNFINISHED BUSINESS: **File 2017-14 AV**
 Tax Map # 36.11-1-11
 Frank and Sandra Dinger
 376 East Shore Drive
 Adirondack, NY

Requesting an AV for a rear yard setback for a proposed garage and a side yard setback for a relocated shed, from **Zoning Code 6.10** for a garage to sit 2' from the rear of the property where 22.5' is required and a relocated shed to sit 3' from the side yard where 15' is required.

Town Attorney Leah Everhart reviewed the EAF form with the Board members and there were none to small impacts from this proposal.

Gary Frenz made a motion to adopt a SEQRA negative declaration. Second by Scott Olson. **ALL AYES.**

Chairperson Cheryl Erickson stated that we received the Warren County Planning Department Review that states there will be no County impact on County properties or resources.

The Board reviewed the Area Variance criteria:

Chairperson Cheryl Erickson stated that the Board would now go ahead and discuss the Balancing Test to balance the benefit to the applicant with detriment to the health, safety and welfare of the community. This review will apply to both the variances requested for rear and side yard setbacks.

The ZBA further finds:

- 1) This is the only means feasible to achieve the applicant's goal of putting a garage on the property or moving his shed forward because the septic and leach fields are located in the front of the home, the side is too steep, the property is so narrow and not very level. The shed will remain 3' from the side yard where it currently sits, just moved forward.
- 2) There will be no undesirable change to the character of the neighborhood or any detriment to nearby properties because this is consistent with the neighborhood and the garage being built behind the home is a more desirable spot.
- 3) The requested variance is not substantial given the limitations and structures on the property it is reasonable to place the garage there.
- 4) There are no adverse physical or environmental effects because there were no trees removed and no erosion when building the garage. The shed is already existing and will be under the same constrictions.

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- 5) The alleged difficulty was self-created because of limitations of the topography of the lot which is narrow and using most of it for the septic and well.
- 6) The Board members stated that this is the minimum variance necessary because of the topography and makeup of the lot and it allows the goal of the applicants to be met.

Being no further questions or comments and based on the previous discussions, James Dewar made a motion to approve the request for an Area Variance for a rear yard setback for a proposed garage and a side yard setback for a relocated shed, from **Zoning Code 6.10** for a garage to sit 2' from the rear of the property where 22.5' is required and a relocated shed to sit 3' from the side yard where 15' is required. Second by Pat Farrell. **ALL AYES.**

Communications: None

Public Comments: Bob Olson, talked about a communication received from the APA regarding Town Board of Health septic variances. The letter will be forwarded to the ZBA members and Planning Board members for their review. Bob told the ZBA members that the Town Board made a resolution to adopt a Zoning Compliance Certificate surcharge of \$150.00 for after the fact request for a Zoning Compliance Certificate in addition to the regular fee and an after the fact Variance surcharge of \$100.00 in addition to the regular fee. This will be instituted as of October 15, 2017.

Board Comments: None

Being no further comments or questions Scott Olson made a motion to adjourn. Second by Pat Farrell. **ALL AYES.**

Adjourn: 8:55 PM

Next Meeting Date: October 24, 2017

Respectfully Submitted,
Terri Katsch, Secretary