

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of April 27, 2010

Members Present: Gary Frenz, Priscilla Remington, Curt Castner, Dan Smith, Cheryl Erickson, Alternates: Jim Steen, Thad Smith

Members Absent: None

Others Present: Counsel to Boards Mike Hill, Town Board Member Bob Olson, Zoning Administrator Gary McMeekin

Guests Present: Jim and Steve Farrell, Tom Johansen, Frank Costello, Gary and Elinor Muller, Michael Hough, Dan Schweigard, Bill McGhie, Linda Hoyt, Wayne Butler, Jim Hayes

Pledge

Regular Meeting called to order by Gary Frenz. Cheryl Erickson made a motion to approve the minutes as corrected 2nd by Dan Smith. All Ayes.

NEW BUSINESS:

File # 2010-15 AV Tax Map 39.17-1-10 Stan Rusak seeking a 24' shoreline setback variance and a 29' road way setback variance to build a 8' x 12' shed on parcel located at 7809 State Rte 8. After a brief discussion Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2nd by Dan Smith. All Ayes

File # 2010-16 AV Tax Map 70.-2-13.111 John Fosatti/Independent Towers seeking two (2) 25' height variances to build two (2) 65' cell towers on parcel located on East Schroon River Road. Dan S (unknown) from Independent Towers stated that this is a 196 acre parcel is an AT&T tower and has been working with the APA for permits for 8-9 months, balloon tests have been done with the APA staff and the top of the tower will be 8' to 10' above the tree line, there are no neighbors or homes nearby and the two towers can be utilized for multiple carriers, site visits were done, the road was reconfigured to reduce the wetland impact stating that there will be an 8 second view of the towers from the Northway, submitting before and after coverage areas. After a brief discussion, Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2nd by Curt Castner. All Ayes.

File # 2010-18AV Tax Map 88.10-1-24 Horicon Fire Dept seeking a 11' rear yard setback to build an addition on parcel located 6590 State Rte 8. Jim Hayes, Chief stated that the expansion is needed to provide extra storage. Jim Steen stated that this was a simple and straight forward application and the property is in the CR-20,0000 zone. Dan Smith made a motion to deem the application complete and schedule a public hearing, 2nd by Cheryl Erickson. All Ayes.

PUBLIC HEARING:

File # 2019-05 AC Tax Map 36.3-3-26 Gary and Elinor Muller seeking to extend dock to obtain adequate water depth. Proposed dock is 5 feet wide x 62 feet long where 40 feet maximum dock length is allowed. Gary Frenz stated that additional letters were received. Gary Muller stated that he spoke with the surveyor and a underwater survey would cost approximately \$1,000.00 and presented the board with aerial photographs showing the docks, shallow water and vicinity of this parcel to Sand Point Beach adding that his neighbor will be seeking the same variance in the near future. Priscilla Remington asked if there were any problems with the dock the last two summers. Gary Muller stated that he did not have any complaints from the neighbors. Jim Steen asked if the applicant has spoken to the neighbors that had written letters opposed to this project. Gary Muller stated that he wrote them a letter and received one letter back. Gary McMeekin stated that this is a very shallow area and received a call from Mr Randall who is still opposed to this project. Dan Smith stated that the photos show that there are no feasible alternatives to the placement of this dock. Gary Frenz reasserts with the applicant the water depth to be 21 inches deep at 40 feet and 36 inches deep at 62 feet asking if anyone had any comments or questions. Being no further comments or questions Cheryl Erickson made a motion to close the public hearing, 2nd by Priscilla Remington. All Ayes.

UNFINISHED BUSINESS:

File # 2019-05 AC Tax Map 36.3-3-26 Gary and Elinor Muller seeking to extend dock to obtain adequate water depth. Proposed dock is 5 feet wide x 62 feet long where 40 feet maximum dock length is allowed. Gary Frenz stated that Warren County Planning Board recommended No County Impact. The board discussed the criteria stating that there is no undesirable change in the neighborhood as there is no detriment to nearby properties or boat traffic as this is shallow, Dan Smith stated that this is a unique situation. Cheryl Erickson read the zoning ordinance page 75 and 76 regarding the criteria stating that a survey is cost prohibitive and unreasonable to request as the satellite photos depicts the property to be shallow the location of the docks to the north are in the same situation, but the property to the south has different conditions, this is not an obstacle to navigation and the channel markers are 50 yards off the shore, in order to get to the maximum depth the applicant would need to go out 62 feet, this is not an undesirable change in the neighborhood as boating and dock are not unusual. Dan Smith stated that there are several long docks in that area and this is in keeping with the character of the neighborhood, the discussion focused on removal of vegetation and the movement of the docks that would require side yard setbacks, the percentage of the variance request is moderately substantial and Priscilla Remington stated that there are no physical or environmental effects as this dock has existed for the last two years and any impact to any wetlands or water flow would have been noticed and there may be a environmental impact if the boat were located closer to the shore due to the depth of the water, adding that this was not self created. Being no further discussion Cheryl Erickson made a motion to approve the 22 foot dock length variance as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties a dock is not unusual in the neighborhood and there are several long docks in the area. The benefits sought be applicant could not be achieved by any other means as placement of this dock would require removal of vegetation and possible side yard setback variances and the depth of the water. The requested variance is moderately substantial but necessary due to the depth of the water. There is no effect or impact on the physical or environmental conditions in the neighborhood as this has been in the water for the last two summers and any detriment would have been observed by now, there are no wetlands and is not extending out into the channel. The alleged difficulty was not self created as the difficulty was due to the shallowness of the lake. Noting that this is the minimum variance necessary to maintain a water depth of three feet. With the condition that the applicant place reflectors on the dock.

PUBLIC HEARING:

File # 2010-11 AV Tax Map # 39.17-1-23 Wayne and Kathy Butler seeking a 29' shoreline setback variance and a 5' side-yard setback variance to build a 10' x 22' screened porch on parcel located at 7851 State Rte 8. Wayne Butler submitted a plot plan with dimensions to the board. Gary Frenz asked if anyone had any comments or questions. Being no further comments or questions, Dan Smith made a motion to close the public hearing, 2nd by Cheryl Erickson. All Ayes.

UNFINISHED BUSINESS:

File # 2010-11 AV Tax Map # 39.17-1-23 Wayne and Kathy Butler seeking a 29' shoreline setback variance and a 5' side-yard setback variance to build a 10' x 22' screened porch on parcel located at 7851 State Rte 8. Discussion ensued regarding the shaded area of the property, the need for tree removal if this were to be built on the other part of the home the placement of the walkway/entranceway and the driveway. Wayne Butler stated that the septic for this home is located on an adjacent lot. Dan Smith stated that this placement would have that least impact. Cheryl Erickson stated that this conforms to the layout of the home and is the most logical placement with the least impact on the structure and the least visual impact on the road and lake, there is no change to the character of the property as there are no neighbors, this is typical for the area, this is moderately substantial, a 45% variance. Jim Steen stated that house is only 23' from the lake and the porch is no more non-conforming, the porch will be towards the applicant property and will move only 3' 4 1/2" towards the side-yard, the porch is not excessive as it is only 10' wide, set into the recess of the home, there is no environmental effect as there will be no tree removal. Dan Smith added that the addition is 220 square feet and will have no negative impact on the storm water, was not self created and this is the minimum variance necessary as this is a 10' porch that conforms with the current structure and the porch length fits with the home. Curt Castner made a motion to approve the 29' shoreline setback variance and the 5' side-yard setback variance as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties as this is a residential area, the applicant owns the neighboring property. The benefits sought be applicant could not be achieved by any other means as the back part of the home is closer to the lake, an addition to the front would require removal of trees over 4" in diameter, the southern part of the home is the walkway/entrance and the western part of the home is the driveway, this is the most logical placement of a screen porch due to the layout of the home, the least impact on the existing structure and a minimal visual impact from the road or the lake. The requested variance is not substantial as the house is 23' from the lake and the porch will not be

anymore non-conforming and this fits with the home. The side-yard variance is already non-conforming and the applicant owns the adjoining parcel, the side of the existing structure is non-conforming the porch will be 3'4 1/2" closer to the side-yard than the existing home. The porch is not large or too excessive as 10' wide. There is no effect or impact on the physical or environmental conditions in the neighborhood as this will prevent removal of trees on the other side of the home, there is no additional impact on the storm-water runoff as this is a 220 square foot addition and there is no visual effect from the water or the road. The alleged difficulty was not self created. This is the minimum variance necessary as the length fits with the home and conforms with the current structure, 2nd by Cheryl Erickson. All Ayes.

PUBLIC HEARING:

File # 2010-14 AV Tax map # 38.1-2-2 Edward and Lisa Marks seeking a 100' shoreline setback variance, a 22' roadway setback variance and a 10' side-yard setback variance to demolish and rebuild an existing detached structure and attach to existing home on parcel located at 277 Beaver Pond Rd. Michael Hough explained the project. Priscilla Remington asked if this would be closer to the lake than the existing buildings. Michael Hough stated that this project will basically be staying within the footprint of the existing structures just adding on to join the two buildings and square off the house on the road side. Discussion ensued regarding the existing septic and the location of the septic. Gary McMeekin stated that the septic is located across Beaver Pond Road and will verify that this is a 1000 gallon tank. Cheryl Erickson asked what the roof line would look like. Michael Hough stated that he is unsure at this time. Discussion ensued regarding the runoff from the roof and the amount of rooms and space in the existing house and the foundation. Cheryl Erickson stated that the proposal is making the home less than 10% bigger. Being no further comments or questions, Gary Frenz made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

UNFINISHED BUSINESS:

File # 2010-14 AV Tax map # 38.1-2-2 Edward and Lisa Marks seeking a 100' shoreline setback variance, a 22' roadway setback variance and a 10' side-yard setback variance to demolish and rebuild an existing detached structure and attach to the existing home on parcel located at 277 Beaver Pond Rd. Discussion ensued regarding the criteria with the size of the proposed addition. Dan Smith stated that this is not a major impact in any direction, taking two non-conforming structures and joining them to create one cohesive single family dwelling as there is no other feasible space to expand the home without more extreme variances. Cheryl Erickson stated that this will basically keep the home on the existing footprint and there will be no undesirable change in the neighborhood and is a visual improvement, this is consistent with the neighborhood continuing the upward trend, this is very substantial but the home is pre-existing and the addition on the road side will not be any closer than the existing home, the addition is 15" to join the two structures and the side-yard is less than 25 square feet, not a major addition. Discussion ensued if the front porch was a necessary addition. Cheryl Erickson stated that it squares off the home and is flush with the home, provides an entryway, is visually pleasing and minimal size for a porch and the total additional square footage added to livable space is 64 square feet, there are no adverse physical or environmental effects and is any improvement to the property, the septic tank is 1,000 gallons and located across the road and will conform to the number of bedrooms, this is not self created, with this addition the home is still a modest size and this is the minimum variance necessary to join the two structures making this a functional living space and is in keeping with the existing structure. Dan Smith made a motion to approve the 100' shoreline setback variance and the 22' roadway setback variance as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties as this request is modest in size, the applicant is joining two structures and this will be the minimal square footage to accomplish this, is a non-conforming structure pre-existing. There would be a major impact if the addition was proposed in any other direction. There is no other feasible space to expand existing home and there is less impact in staying with the footprint of the existing home. The benefits sought by applicant could not be achieved by any other means as this is an visual improvement by joining the two structures, no impact on the neighborhood and consistent with area and continues the upward trend of the neighborhood. The requested variance is very substantial due to the shoreline but the home is pre-existing and the lakeside porch will still be a porch, the addition is not closer to the road than the main structure, there is a slight increase of the structure towards the road but necessary to match the existing home and not expanding the home an unreasonable amount of square footage. The lakeside variance is a 15" addition to join the two homes and the side-yard impact is less than 25 square feet of livable space, the overall area for the addition is 64 square feet - not a major addition. All other portions of the home are pre-existing. The front porch is necessary to square off the home and is in keeping with the neighborhood, provides an entry way into the home and is visually pleasing and is a minimal size for a porch. There is no effect or impact on the physical or environmental conditions in the neighborhood as this is an improvement in making two structures into one, the septic system is located across the road and the Zoning Administrator will confirm compliance with the number of bedrooms proposed. The alleged difficulty was not self created as the property and home are pre-existing, non-conforming. With the condition that the septic system be brought into compliance if found to be insufficient for number of bedrooms, 2nd by Cheryl Erickson. All Ayes.

PUBLIC HEARING:

File # 2010-10 AV Tax map # 55.10-1-22 Golden Pond LLC/Farrell seeking a 45' shoreline setback variance to build a new home on parcel located at 686 Palisades Road. Steve Farrell stated that a storm water management plan was submitted by Jim Hutchins showing trenches around the house and a new plan was presented to the Planning Board last week showing a home of 3,358 square feet continuing on to state that there have been serious revisions to the original plan and 3,158 square feet is the lowest they can go which is only 678 square feet more than the current home. Gary Frenz stated that the Town Planning Board recommended that the height of the structure be shown on an elevation plan indicating elevations from the closest part of the structure(decks/porches etc.) to the lake, request that the engineer produce a storm-water run off plan showing on site runoff containment and the size of the home continue to be reduced to be in keeping with the neighborhood. Priscilla Remington asked the applicant if this square footage for the home is the final request of 3,358 square feet with decks. Dan Smith stated that the letter received from Jim Hutchins states that the home with the decks is 4,400 square feet including 1,000 square feet of decks. Cheryl Erickson stated that the footprint of the new home on the plot plan does not match the dimensions being requested on the application and that the home dimensions actually grew from the application that was previously denied which was a home of 3,859 square feet with decks. Lengthy discussion ensued regarding the actual square footage of the home and the footprint of the home, the ability to locate a septic system on the property, the ability to move the home further back from the property. The board suggested to the applicant that a final house plan be submitted along with plot plan showing the footprint of the house and decks along with the septic layout. Priscilla Remington made a motion to continue the public hearing in receipt of a revised plan, 2nd by Cheryl Erickson. All Ayes.

PUBLIC HEARING:

File # 2010-07AV Tax Map 70.-2-16 Charles Hayes seeking a 3.721 acre density variance and a 200' roadway frontage variance to subdivide parcel located at 63 Valentine Pond Road. Being no comments or questions Cheryl Erickson made a motion to close the public hearing, 2nd by Curt Castner. All Ayes

UNFINISHED BUSINESS:

File # 2010-07AV Tax Map 70.-2-16 Charles Hayes seeking a 3.721 acre density variance and a 200' roadway frontage variance to subdivide parcel located at 63 Valentine Pond Road. Discussion ensued regarding the amount of acreage of each lot in each zone. Dan Smith stated that 1.76 acres or 28% of Lot 2A is located in the 10 acre zone and 23% of the entire lot was in the 10 acre zone before the proposed subdivision. The board stated that there is no undesirable change to the neighborhood and this is located in a residential area, this would be an improvement to the area, the density variance request is approximately 5% and is not substantial and the roadway variance request is substantial but this is a non-conforming pre-existing lot and there are other non-conformities in the area, 23% of the original lot is located in the 10 acre zone, 72% of the lot is located in the 5 acre zone is will be 6.279 acres, there are no physical or environment effects as this will take acreage out of the sand and gravel portion of the lot and was not self created. Dan Smith made a motion to approve the 200' of roadway frontage variance for Lot 2A and 3.721 density variance for Lot 2A as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties as the area is mainly residential with mobile homes and single family dwellings and this would be an improvement as a portion of the parcel is being used for Sand and Gravel extraction. The benefits sought by applicant could not be achieved by any other means as the applicant does not have any other way to gift a parcel of property to the daughter, the gift parcel meets the area requirements of Section 14.20. The requested variance is not substantial as the lot is non-conforming, pre-existing and 28% the original lot of 7.612 acres is located in the RRD-10 acre zone. The subdivision of lot 2A reduces the acreage to 6.279, which calculates that 25% of lot 2A will be located in the RRD-10 acre zone and a reduction of 5% is not substantial. 100% of lot 2B is located in the R2-5 acre zone but meets the minimum requirements of Section 14.20. There is no negative effect or impact on the physical or environmental conditions in the neighborhood as this will take acreage out of the sand and gravel extraction and be an improvement to the property. The alleged difficulty was not self created as the lot is pre-existing non-conforming. This is the minimum variance necessary as the gift parcel is 1.333 acres with 100 feet of road frontage. Section 14.20 requires gift parcels to be 1.3 acres with 100 feet of road frontage. Any further reduction in acreage would require additional variances, 2nd by Priscilla Remington. All Ayes.

UNFINISHED BUSINESS:

File #2009-35AV Tax Map 89.5-1-11 Dan and Deanne Paull seeking a .20 acre density variance to be defined as a Farm. Full or Part Time under the definition section of the Zoning Code. Gary Frenz stated that this application is on hold at this time, a letter was received from the Paull's stating that they are withdrawing their application for a variance to be defined as a Farm but the complaint from the neighbor is still pending. Gary Frenz also stated that there were some conversations with the applicants and the neighbors but nothing has been resolved.

BOARD PRIVILEGE: None

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 11:20 PM

Respectfully Submitted.
Christine Smith-Hayes, Secretary