

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of August 24, 2010 - Draft

Members Present: Gary Frenz, Dan Smith, Priscilla Remington

Members Absent: Cheryl Erickson, Jim Steen, Curt Castner, Thad Smith

Others Present: Counsel to Boards Mike Hill, Zoning Administrator Gary McMeekin, Planning Board Member Mike Raymond.

Guests Present: Bill McGhie, Tommy Johansen, Charles Jelinke, Brain Carroll, Leon and Julie Cochran, Fred and James Peters, Tracy Schraver, Steve Farrell,

Pledge

Regular Meeting called to order by Gary Frenz. Gary Frenz made a motion to table the approval of the July minutes as a quorum of members is not present for a vote, 2nd by Priscilla Remington. All Ayes.

NEW BUSINESS:

File # 2010-27 AV Tax Map 20.10-1-56 Peters Properties LLC (Fred Peters) seeking a 15' roadway setback variance and a 12' rear yard setback variance to build a new 36' x 36' home with 2 decks on parcel located at 879 East Shore Drive. Existing home to be demolished. Fred Peters stated that he would like to remove the old home and build a year round home on the existing footprint, squaring off the house making the new home 36' x 36' adding 225 to 250-square foot of living area. Gary Frenz asked if the decks on the building now will be removed. Fred Peters stated that new decks would be built on the new home and the decks will be the same size as the old decks and there would be a walk out basement on the lake side of the home. Dan Smith asked what the plans are for the basement. Fred Peters stated that the basement would be used as storage only, no garage under the home. Discussion ensued regarding the house plans showing the decks and how they were attached to the home and the distance from the property lines. Being no further questions or comments Priscilla Remington made a motion to deem the application complete and schedule a public hearing, 2nd by Dan Smith. All Ayes.

File # 2010-29 AV Tax Map 53.-3-54 Donald Alger (Brian Carroll-contract vendee) seeing a 44' rear yard setback variance to replace a mobile home on parcel located at 4062 East Schroon River Road. Brian Carroll stated that the mobile home on the parcel is in disrepair and would like to replace it with a 28' x 66' mobile home with a 4' x 8' deck and a 8' x 30' porch but due to the properties dimensions a variance is needed. Gary McMeekin stated that the new mobile home would be placed towards the rear of the parcel meeting the road way and side yard setbacks. Dan Smith stated that this is a pre-existing lot and the board would need a plot plan drawn to scale making a motion to deem the application complete, scheduling a public hearing pending receipt of a scaled plot plan, 2nd by Gary Frenz. All Ayes.

File # 20190-28 UV Tax Map 39.13-1-7.1 Leon Cochran seeking a Use Variance to maintain the bathroom/kitchen facility in boathouse located at 6 Horicon Birches Road Extension. Leon Cochran stated that a bathroom exists and explained reason in the application. Priscilla Remington stated that the application process started in 1998 as per the zoning compliance certificate. Leon Cochran stated that the boathouse was completed in 2003 and did not realize that bathroom, wet bar were not allowed, would not call the wet bar a kitchen, this is for seasonal use and not designed for year round living and this was a matter of economics as he could not justify the cost of the boathouse without the extra uses. Gary Frenz stated that financial evidence is needed for a Use Variance and read page 85 of the zoning ordinance. Leon Cochran stated that this was a hardship due to access to the lake and this enhances the neighborhood. Gary Frenz asked if a County Building permit was issued. Leon Cochran stated that Dick Silvernail, former Zoning Administrator told him that the zoning compliance was a joint application. Gary Frenz stated that a County Building permit is needed as is an electrical inspection. Mike Hill stated that financial evidence can consist of an expert stating that the real property would not be sellable without the boathouse equipped with a bathroom, and that it is not possible to realize a reasonable return on the property for any of the allowable uses asking what prompted this application. Gary

McMeekin stated that Leon Cochran submitted an application to expand the docking facility and with a violation of the zoning code, permits can not be issued for the property. Dan Smith made a motion to deem the application complete pending receipt of further information. Gary McMeekin asked if the board could be very specific as to the information it is requesting. Mike Hill stated that an opinion of any expert that shows this parcel is unique to the neighborhood and the applicant can seek legal advice. Discussion ensued regarding the amount of time that the information needed to be submitted due to the advertising of the public hearing. The motion was 2nd by Priscilla Remington. All Ayes.

PUBLIC HEARING: (NEW BUSINESS)

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. Tracy Schraver stated that the plot plan shows 1300 square feet of deck and new home is currently 47' x 75' with the decks or 2,200 square feet. Noting that the plans show a home of approximately 3,400 square feet without decks/porches versus the old home of approximately 1500 square feet without decks/porches. Lengthy discussion ensued regarding the actual setback from the lake with Steve Farrell pointing to red lines on a plot plan. Gary McMeekin stated that he could not make a determination as to where the home is sitting on the property and what the setbacks would be, as 100' is the minimum setback for that zone. Gary Frenz made a motion to table this application until next month, requesting the applicant meet with Gary McMeekin and make a final determination as to the placement of this home, re-advertising the public hearing with the correct variance request determined by Gary McMeekin and this information must be into the Zoning and Planning Office by 9 AM on September 10, 2010. Mike Raymond asked if the water drainage/run off, sewage runoff has been addressed, and if the surveyor could pin the existing footprint and if there is a run off situation who would be on site during construction to deal with these issues, and would like to see a full set of scaled plans for this home. Gary McMeekin stated that the engineer can address those issues.

Mike Hill suggested the board get an updated letter from the Engineer and a plot plan showing the final placement of the home on the parcel, close this public hearing without making a decision, and re-open this application as New Business.

Dan Smith made a motion to close the public hearing based on the original setback requests, requesting the applicant withdraw this application, initial the changes made and open the revised application, deeming the new application complete, schedule a public hearing pending the receipt of the plot plan showing the new home on the parcel with the setbacks requested, re-noticing the adjoining owners and re-advertising the legal notice in the Adirondack Journal including the storm water run off information, all to the office by September 10, 2010 at 9 AM. The applicant agreed to withdraw the original application and re-submit the application with the correct variance requests. 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 a phone call was received from the applicant requesting this matter be tabled for another month. Gary McMeekin stated that there are violations pending on this property due to this matter. Priscilla Remington made a motion to deny the .20 acre variance as this is an undesirable change to the character of the neighborhood and a detriment to nearby properties as this changes the neighbor's ability to use their property due to the noise and odor. There are feasible alternatives as the applicant can find another place for the goats, the parcel is too small of an area to keep animals. The requested variance is not substantial but the animals need more space to roam. There is an adverse physical and environmental effect in the neighborhood due to the odors and the unknown effect on the wetlands. The request was self created as the amount of goats are the issue, one or two goats may not have caused a problem. Dan Smith stated that he would like to discuss the motion as he disagrees with some of the statements. Dan Smith continued to state that the board could propose a minimum variance possibility as the applicants thought they had enough property and they have had these goats for years, the goats are for a 4H project, requesting the board to place a year or two time limit on the goats. Gary Frenz stated that this matter has been dragging on for a long time. Gary McMeekin stated that the animals have only been there for 12 to 15 months, the Burka's purchased their property in 2000 and the applicants did not do their research before bringing the goats to the property. Dan Smith stated that there are chickens and rabbits on the property and the complaint is about the goats and feels this is a disturbance of the peace issue. Gary Frenz reiterated that this has been on going. Mike Hill stated that an approval would mean that the benefit to the applicant outweighs the health, safety and welfare of the community. Gary Frenz stated that the animal waste near the wetlands could be a health detriment to the neighborhood. Discussion ensued regarding a time limit for the applicants to remove the goats from the property. The board agreed that the goats would be removed from the property on or before November 30, 2010. Priscilla Remington amended her motion to include the time limit, 2nd by Gary Frenz. The board was polled: Priscilla Remington Aye, Gary Frenz Aye Dan Smith Aye.

PUBLIC HEARING:

File #2010-23 AV Tax Map 70.-2-16 Hayes, Charles seeking a 3.650 density variance and a 200' road frontage variance for Lot 2B and a 3.738 density variance and a 200' road frontage variance for Lot 2A for a 2 lot subdivision located at 63 Valentine Pond Rd in the RRD-10 acre zone. Lengthy discussion ensued regarding placing strict conditions on this subdivision approval. Some conditions discussed include no development on lot 2A until the Sand and Gravel pit use ceases, a shared driveway for both parcels, development on Lot 2A to occur in the rear of the parcel, re-vegetation and re-seeding along the road to hide the sand and gravel pit. Being no comments from the public Gary Frenz made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

UNFINISHED BUSINESS:

File #2010-23 AV Tax Map 70.-2-16 Hayes, Charles seeking a 3.650 density variance and a 200' road frontage variance for Lot 2B and a 3.738 density variance and a 200' road frontage variance for Lot 2A for a 2 lot subdivision located at 63 Valentine Pond Rd in the RRD-10 acre zone. After a lengthy discussion regarding the criteria, the sand and gravel pit along with imposing conditions of re-vegetating and re-seeding area and others, Priscilla Remington made a motion to table the decision, 2nd by Dan Smith. All Ayes.

PUBLIC HEARING:

File # 2010-35 AV Tax Map 39.17-1-6 Whitehead, Michael seeking a 35' roadway setback and a 3' side-yard setback variance add an egress from second story of home located on 7887 State Rte 8 in the R1-1.3 acre zone. Lengthy discussion ensued regarding the need for variances as this home is non-conforming. Being no further comments or questions, Dan Smith made a motion to close the public hearing, 2nd by Priscilla Remington. All Ayes.

UNFINISHED BUSINESS:

File # 2010-35 AV Tax Map 39.17-1-6 Whitehead, Michael seeking a 35' roadway setback and a 3' side-yard setback variance add an egress from second story of home located on 7887 State Rte 8 in the R1-1.3 acre zone. There will be no undesirable change to the character of the neighborhood or detriment to nearby properties: This is a pre-existing non-conforming home. The benefits sought by the applicant could not be achieved by any other means as the home was built in 1955 and cannot be moved. The requested variance is very substantial but no closer to lake than existing structure. This is a minor expansion of a pre-existing non-conforming structure built in the 50's. There is no effect or impact on the physical or environmental conditions in the neighborhood. The alleged difficulty was self created as the applicant wants a 2nd story addition with an outside staircase for access to the 2nd story. This request makes no changes to the front or left side of the structure which is non-conforming due to the roadway and side yard setbacks. This variance request is of the technical nature as this new addition to the home conforms to the setback requirements. The board noted that this project is exempt from SEQRA. Gary Frenz made a motion to approve the 35' roadway setback and the 3' side yard setback variances based on the discussion with the condition that any further expansion of this home will require variance approval, 2nd by Priscilla Remington. All Ayes.

BOARD PRIVILEGE:

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 10:10 PM

Respectfully Submitted.
Christine Smith-Hayes, Secretary

Note: August 2010 ZBA minutes have not been approved