

**Horicon Zoning Board of Appeals
Minutes**

**August 21, 2012
7:00PM**

Present: Gary Frenz Chairman
Cheryl Erickson Vice-Chair
Priscilla Remington Member
Carl Heilman Member
Thad Smith Member
Bob Miller Alternate Member

Also: Mike Hill Town Counsel
Gary McMeekin Zoning Administrator

Bob Olson Town Council
Matt Simpson Town Council
Bill McGhie Planning Board Member

Tom Johanson, Steve Ostrander, Laura Coppola, Jeffrey Meyer, Herta Leidy, Frank Noon, Steve and Carol Lazarus, Teri Schuerlein, Jim Sidford.

<u>Agenda Items:</u>	File #2012-16AV	Tax Map# 36.6.3.5	Sand Point Beach
	File #2012-15AV	Tax Map # 88.7-1-35	Lazarus
	File #2012-08A	Tax Map # 72.13-2-48	Brant Lake Heights HOA

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

Gary Frenz stated that Carl Heilman is now a regular member of the board as Curt Castner has resigned due to illness. This board would like to thank Curt for his dedicated service.

Minutes Approval: The board reviewed the June minutes, Cheryl Erickson made a motion to approve the June minutes as corrected, 2nd by Carl Heilman. All ayes. The board reviewed the July minutes. Gary Frenz made a motion to approve the July minutes as corrected, 2nd by Carl Heilman. Gary Frenz, Carl Heilman and Thad Smith Ayes, Cheryl Erickson and Priscilla Remington abstained as they were not present for the July meeting.

NEW BUSINESS:	File #	2012-16AV
	Tax Map #	36.3- 3-5
	Property Location:	219 East Shore Drive
	Request:	6' side-yard setback variance where 15' is required to remove and rebuild cabin #7.
	Property Owner:	Sand Point Beach Association

Laura Coppola, Vice President of the Sand Pont Beach Association stated that the application is incorrectly indicated a 9' variance where it is a 6' variance request.

Gary McMeekin confirmed that this is a 6' variance request.

Mike Hill stated that this is exempt from SEQRA review

Gary Frenz requested the applicant change and initial the application and asked if any board member had any questions.

Cheryl Erickson made a motion to deem the application complete and schedule a public hearing for September 25th, 2nd by Thad Smith. All Ayes.

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Mike Hill stated that the board has an attorney client privilege. The draft resolution was prepared for the board and it is an attorney/client-privileged document and does not have to be disclosed until after you have discussed it and adopted it.

Mike Hill asked if there was any other item in the FOIL request that was not received.

Information was sent to Matt Fuller on August 16th in regards to the other items in the FOIL request.

Mike Hill stated that Matt Fuller received all of the information in the FOIL request except for the draft resolution.

Jeff Meyer: In response to question five, who was the author of the letter?

Mike Hill. The identification of the author of the letter, is not a public record, so there was no response to that question, or, that was the response to that question.

Jeff Meyer stated that he understood.

Gary Frenz stated that the board has been given the draft resolution and suggested that Mike Hill, Town Counsel read it aloud.

The Draft resolution was read aloud by Attorney Mike Hill.

Mike Hill stated that the board can modify the decision as they see fit and if there are any factual changes, corrections, comments, suggested changes, now would be a good time to review those, asking which members would be participating in this decision. Confirming that Curt Castner has previously recused himself and has since resigned, Thad Smith has recused himself, and Carl Heilman now a full member of the board.

Gary Frenz stated that Bob Miller is a full voting member of the board for this decision.

Gary Frenz then asked for the 911 number (address) for this parcel.

Warren County is responsible for assigning 911 numbers to parcels, vacant parcels are not assigned 911 location numbers, and this is a vacant parcel located on State Route 8 with tax map number 72.13-2-48. Length discussion ensued regarding the draft decision and the board made changes/corrections. Discussion regarding the APA dates of letters revising their jurisdiction over the project. The original letter dated 12/2/2009 APA taking full jurisdiction over the project. 1/28/2010 Gary McMeekin issued a determination based on the APA letter, 7/14/2011 APA issues a letter revising their jurisdiction 1/10/2012 Gary McMeekin issues a new determination.

Cheryl Erickson stated that she feels wording should be included in the decision. Following the change in the APA's jurisdiction as stated in the letter of 7/14/2011, the Zoning Administrator issued his determination on 12/10/2012 that the portion of the dock outside the areas under APA's Class A Jurisdiction, would be reviewed under the town's code. After further review, Cheryl Erickson stated that this information is on page 3. And this sentence would not need to be reiterated, Cheryl Erickson suggested that the next paragraph be changed in sequence.

Gary Frenz asked if there are any other changes to the draft decision.

Mike Hill suggested that before a vote is taken on the draft decision that Cheryl Erickson and Gary Frenz review page 6 #3 - point out that there was concern about the participation in regard to this application. Asking if both Cheryl Erickson and Gary Frenz are in agreement with the paragraph and it is consistent with your belief.

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Cheryl Erickson stated that this is very consistent with her belief, this could be any dock in any wetlands where the APA has jurisdiction over the wetlands, and the town code reads, as we have rightfully said, that they need to apply for the Conditional Use for that extra length, otherwise it's unregulated and I don't believe that is what our code says.

Mike Hill: We previously had discussion about this, I believe the draft makes clear that this board is not determining whether the proposed dock system should be approved or denied, or allowed or determining the configuration of the dock system or the number of slips, this is not what this is about, this is strictly a procedural question about whether the docks are subject to Town jurisdiction and whether they would go before a Planning Board review under Section 9.70 10B, the draft says that you are not rendering a determination or recommending with regards to the proposed dock system.

Carl Heilman stated that this is very clear and appropriate for the board.

Gary Frenz stated that the Town should have control over the lake, procedurally.

Cheryl Erickson stated that it doesn't matter that this is the Brant Lake Heights Docks, any application for this sort would require Town review, this could be anywhere on any lake.

Mike Hill asked Cheryl Erickson and Gary Frenz if they strongly believe that they have been objective and impartial in this decision.

Cheryl Erickson stated that she has been objective and impartial.

Gary Frenz stated that he has been objective and impartial.

Being no further comments on the draft resolution Priscilla Remington made a motion to approve the above as amended as a Resolution of the Zoning Board of Appeals deciding the appeal of the Brant Lake Heights Homeowner's Association, File #2012-08A, 2nd by Carl Heilman.

Roll Call Vote: Priscilla Remington Aye
Carl Heilman Aye
Bob Miller Aye
Cheryl Erickson Aye
Gary Frenz Abstained.

The motion has passed with four (4) ayes and one (1) abstention, upholding the Zoning Administrator's determination.

Next Meeting September 25, 2012 7 PM

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 8:50 PM

Respectfully Submitted.

Christine Hayes, Secretary