

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of August 22, 2006 - approved 9/26/06

Members Present: Chairperson Priscilla Remington, Harry Balz, Gail Serrine, Dan Smith, Jason Hill
Absent: Curt Castner

Others Present: Counsel to Boards Mike Hill, Zoning Officer Gary McMeekin, Town Board Member Bob Olson, Planning Board Member Jim Remington

Guests Present: Jeff Provost, Steve Schreck, Mike and Linda Whitehead, Richard Blum, Beth Mariott, Paul and Kathi Morrisseau, Cindy Mead, Mark Wilson, Erin Hayes, Jim Franz and others.

Public Hearings:

2006-25 Tax Map 39.13-2-15 Niska Beach Association seeking an Area Variance from square footage and length requirements to build a new dock system for 12 boat slips with 856 sq. ft of surface area, 82 ft in length. Jeff Provost representing the applicant stated that each slip is designed for boats that are 22' long 8'6" wide. Being no further comments or questions, Harry Balz made a motion to close the public hearing, 2nd by Dan Smith. All Ayes

2006-27 Tax Map 3612-1-15 36.12-1-63 Blue Sky Estates Association and Hoffman seeking an Area Variance to convey the adjoining owners driveway located on 44 Lakeview Dr. Being no questions or comments, Harry Balz made a motion to close the public hearing, 2nd by Jason. All Ayes

2006-32 Tax Map 55.7-1-3 Cindy Mead seeking and after the fact Area Variance from shoreline setback for a 8' x 12' shed on parcel located at 888 Palisades Rd. being no comments or questions, Jason Hill made a motion to close the public hearing, 2nd by Harry Balz. All Ayes.

2006-33 Tax Map 88.7-1-4 Richard Blum seeking an Area Variance from roadway setback to build a 12' x 14' shed on parcel located at 17 New St. Richard Blum stated that he would like to store lawn furniture, gas cans, lawn mowers, yard tools and remove the existing shed after the new one is built. Harry Balz asked what the distance the old shed is from the road and shore. Richard Blum stated that the old shed is 55' from the road and 25' from the water. Priscilla Remington reported that the Warren Co Planning Board stated No County Impact. Dan Smith made a motion to close the public hearing, 2nd by Jason Hill. All Ayes.

2006-34 Tax Map 39.17-1-15 Betty Marriott seeking an Area Variance from shoreline setback to build a deck on parcel located at 7822 State Rte. 8. Discussion ensued regarding the size of the patio. Eric Burke the applicant's son stated that the deck to be placed over an existing concrete patio that has various levels, the new deck will be safer as there will be no steps and will be aesthetically pleasing as the skirting will match the house. Harry Balz stated that the Warren County Planning Board indicated that this is a pre-existing non-conforming structure. Eric Burke then stated that this new deck will be as small as possible to correct the safety issue and will be 8" to 12" above the ground level. Dan Smith asked about the door on the side of the house. Eric Burke stated that the entrance will be flush with the driveway. Harry Balz made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

Jason Hill recused himself from the Wilson application as he is the potential owner of the parcel

2006-35 Tax Map 88.10-1-54 Mark Wilson seeking an after the fact Area Variance from sideyard setback for garage and shop on parcel located a 6504 State Rte 8. Mark Wilson stated that he is in the process of selling the property and a survey prepared for the sale indicated that the building setbacks were mistakenly not met and the bank needs the variance approval to clear the title. Being no further comments or questions, Gail Serrine made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

Jason Hill returned to the board

2006-36 Tax Map 39.17-1-6 Linda and Michael Whitehead seeking an after the fact Area Variance from shoreline setback for a deck on parcel located at 7787 State Rte. 8. The deck was constructed without a building permit during the winter of 2005/2006 to repair/replace an existing deck damaged by a falling tree. Linda Whitehead stated that the neighbors have no objection to the deck presenting photos of neighboring homes that have decks that overhang into the lake. Lengthy discussion ensued as to the repair of the deck or whether it was expanded and the amount of variance the applicant is seeking. Linda Whitehead stated that the parcel is a very narrow strip of land that is essentially unusable as the property slopes and there is no feasible area to place a deck. Priscilla Remington stated that the Town Planning Board recommended the variance be denied because the encroachment is excessive, there is a negative impact on the shoreline appearance and it sets a negative precedent. Lengthy discussion ensued again regarding the amount of the variance request, the work completed without proper permits, the size of the previous deck and the need to repair existing deck. Dan Smith made a motion to close the public hearing, 2nd by Harry Balz. All Ayes.

The Regular meeting of the ZBA was called to order by Chairperson Priscilla Remington. Motion to accept minutes as corrected was made by Harry Balz, 2nd by Jason Hill. Priscilla abstained from voting as she was not present at last month's meeting. Motion passed by majority vote.

UNFINISHED BUSINESS:

2006-25 Tax Map 39.13-2-15 Niska Beach Association seeking an Area Variance from square footage and length requirements to build a new dock system for 12 boat slips with 856 sq. ft of surface area, 82 ft in length. Priscilla Remington submitted that the Warren County Planning Board stated No County Impact and the Town Planning Board recommended the ZBA deny the variance as the request of doubling the size allowance, has a negative visual impact and a negative impact on boat traffic in the area. The SEQRA form was reviewed by the board. Dan Smith made a motion to deem a negative declaration, 2nd by Harry Balz. All Ayes. Harry Balz made a motion to approve the variance request as there is no undesirable change to the character of the neighborhood or detriment to nearby properties. The benefits sought by the applicant can not be achieved by other means, this is the most desirable method due to the shallowness of the lake bottom. The variance is substantial but permitted under section 11.60 due to shallow water. The request will not have an adverse effect on the physical or environmental conditions of the neighborhood, and will help as the propellers will not stir up the bottom of the lake in deeper water. The request was not self created, adding that the condition of the approval is contingent on boats be no more than 22' in length, 8 ½' wide, 2nd by Dan Smith. All Ayes

2006-27 Tax Map 3612-1-15 36.12-1-63 Blue Sky Estates Association and Hoffman seeking an

Area Variance to convey the adjoining owners driveway located on 44 Lakeview Dr. Priscilla Remington stated that the variance request is for .839 acres. SEQRA form was reviewed by the board. Harry Balz made a motion to declare a negative declaration, 2nd by Dan Smith. All Ayes. Dan Smith made a motion to grant the .839 acre variance as there is no undesirable change to the character of the neighborhood or detriment to nearby properties. The benefits sought by the applicant can not be achieved by other means. The variance is substantial mathematically when measured against minimum lot size for zone, however, area to be transferred is actually only 0.085 acres. The request will not have an adverse effect on the physical or environmental conditions of the neighborhood. The difficulty was not self created, 2nd by Harry Balz. All Ayes

2006-32 Tax Map 55.7-1-3 Cindy Mead seeking an after the fact Area Variance from shoreline setback for a 8' x 12' shed on parcel located at 888 Palisades Rd. Warren County Planning Board stated No County Impact. Dan Smith stated that this request is not substantial. Discussion ensued regarding the mean high water mark. Jason Hill stated that there is no other place to put the shed on the parcel the made a motion to approve the 8' shoreline setback variance as there is no undesirable change to the character of the neighborhood or detriment to nearby properties. The benefits sought by the applicant can not be achieved by other means as there is no other place to put a shed on this parcel. The variance is not substantial and is the minimum variance granted to bring shed into compliance. The request will not have an adverse effect on the physical or environmental conditions of the neighborhood. The difficulty was not self created, 2nd by Harry Balz. The board was polled: Jason Hill Aye Harry Balz Aye Priscilla Remington Aye Gail Serrine Aye Dan Smith No - stating this was self created. The motion was approved by majority vote.

2006-33 Tax Map 88.7-1-4 Richard Blum seeking an Area Variance from roadway setback to build a 12' x 14' shed on parcel located at 17 New St. Gail Serrine stated the new shed is two times the size of the old shed. Dan Smith stated that there will be no other sheds on the property and made a motion to grant the 22' roadway setback variance as There is no undesirable change to the character of the neighborhood or detriment to nearby properties. The benefits sought by the applicant can not be achieved by other means. The variance is not substantial. The request will not have an adverse effect on the physical or environmental conditions of the neighborhood. The difficulty was not self created, 2nd by Gail Serrine. All Ayes

2006-34 Tax Map 39.17-1-15 Betty Marriott seeking an Area Variance from shoreline setback to build a deck over an existing patio on parcel located at 7822 State Rte. 8. Warren County Planning Board stated No County Impact. It was noted that the existing patio is in disrepair. Dan Smith stated that this proposal will improve the situation and made a motion to approve the 36' shoreline setback variance as there is no undesirable change to the character of the neighborhood or detriment to nearby properties and will have a positive impact on the safety for the owners The benefits sought by the applicant can not be achieved by other means as the lay of the land makes this the only suitable solution. The variance is substantial mathematically but the deck will better utilize the use of the yard as there is little usable yard space between the house and the road. The request will not have an adverse effect on the physical or environmental conditions of the neighborhood and will improve the conditions of the property. The difficulty was not self created, 2nd by Gail Serrine. All Ayes.

Jason Hill recused himself from the Wilson application as he is the potential owner of the parcel.

2006-35 Tax Map 88.10-1-54 Mark Wilson seeking an after the fact Area Variance from sideyard setback for garage and shop on parcel located a 6504 State Rte 8. Warren County Planning Board stated No County Impact. Dan Smith made a motion to approve the 3' side yard setback variance for

the shop and a 5' side yard setback variance for the Barn (garage) as there is no undesirable change to the character of the neighborhood or detriment to nearby properties. The benefits sought by the applicant can not be achieved by other means. The variance is not substantial it is the minimum variance necessary to bring property into compliance and will cure the inadvertent setback violation at time of construction. The request will not have an adverse effect on the physical or environmental conditions of the neighborhood. The request was not self created, 2nd by Harry Balz. All Ayes.

Jason Hill returned to the board

2006-36 Tax Map 39.17-1-6 Linda and Michael Whitehead seeking an after the fact Area Variance from shoreline setback for a deck on parcel located at 7787 State Rte. 8. Lengthy discussion ensued. After much deliberation Gail Serrine made a motion to approve the 44' shoreline setback variance as there is no undesirable change to the character of the neighborhood or detriment to nearby properties, as several neighbors have built the same type of decks. The benefits sought by the applicant can not be achieved by other means as there is no usable space in the front of the parcel and due to the steepness of the terrain, there is little usable side yard and no front yard. This is also a replacement deck which provides safe egress from the rear of the home. The variance is mathematically substantial. However, the old deck covered most of the same area, and the four foot (4') expansion in relation to the pre-existing deck is modest. The request will not have an adverse effect on the physical or environmental conditions of the neighborhood as the photos show the similar deck structures in the neighborhood and are consistent with the surrounding neighborhood as it is not any closer to the shoreline than the bottom patio. The request was self created but the expansion of the replacement deck is modest and the deck existed prior to the applicants purchase of the property and the extension of the upper deck is not any closer to the shoreline than the bottom/lower deck, 2nd by Harry Balz All Ayes.

NEW BUSINESS:

2006-41 Tax Map 38.-1-14.1, 38.-1-14.2 and 38.-1-14.3 Martin and Stephen Schreck seeking an area variance from road frontage to subdivide parcel at 708 & 747 Beaver Pond Rd. Stephen Schreck wishes to subdivide that parcel and give his brother two parcels, a 2 +/- acre parcel on Beaver Pond Road and a 6 +/- acre parcel located off the parent parcel without road frontage but with a yet a 20' wide driveway easement. Zoning Administrator Gary McMeekin stated that the requirements to gift a parcel to an immediate family member are exempt from the minimum lot size criteria in Section 8.10 but not exempt from the road frontage requirement of 100'. Mike Hill asked of the zoning ordinance specifies a maximum driveway length. Gary stated that he would research the ordinance. Gail Serrine made a motion to deem the application complete, schedule a public hearing, refer this application to the Town Planning Board, not referring this to the Warren County Planning Board, requesting the Zoning Administrator provide information on driveways, 2nd by Harry Balz. All Ayes.

There being no further business before the board, Chairperson, Priscilla Remington adjourned the meeting at 10:40 PM

Respectfully Submitted.
Christine Smith-Hayes, Secretary