

# Town of Horicon

## ZONING BOARD OF APPEALS

### Minutes of March 23, 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

**Guests Present:**

#### Pledge

Regular Meeting called to order by Gary Frenz

#### 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. Steve Farrell made a lengthy statement as to the revisions made to reduce the size of the deck(s), lower the chimney by eight inches to conform to the 40' height limitation, eliminating the side yard setback variance requests, comparing square footage of houses on lots in the Horicon. Gary Frenz stated that this is not the public hearing and the applicant just needs to present the application to the board. Being no comments or questions, Cheryl Erickson made a motion to deem the application complete, schedule a public hearing and refer this to the Town Planning Board, 2<sup>nd</sup> by Dan Smith. All Ayes.

#### NEW 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. Wayne Butler explained the project and stated that due to his wife's illness the porch is proposed because his wife is not allowed to be in the sun and there is no other placement that does not face the sun, submitting a prescription written by a Doctor, continuing on to state that this will extend 22" from the chimney, using the trees for shade and there is 10' of natural brush between the lots and this will not be visibly from the road. Cheryl Erickson asked what the shoreline setback from the existing house was. Wayne Butler stated that the dimension was not shown on the survey but believes it to be 20 to 22' and will confirm the measurement. Dan Smith requested that the applicant put the dimensions on the map to scale. Cheryl Erickson made a motion to deem the application complete pending receipt of the new plot plan with dimensions to and scale and schedule a public hearing, 2<sup>nd</sup> by Curt Castner. All Ayes.

#### NEW 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 existing home on parcel locate at 277 Beaver Pond Rd. Michael Hoff of Morse Construction representing the applicant submitted pictures of the structure explaining the project stating that the foot print of the existing building will not change except for the addition of 2' on enclose a kitchen door. Dan Smith asked if this would be a heated living area. Michael Hoff stated that the floor plan is enclosed and it will be heated and liveable space. Priscilla Remington stated that the septic for this home is located across the road. Cheryl Erickson asked what this space is currently being used as. Michael Hoff stated that it is used as a rec room and kayak/canoe storage. Cheryl Erickson asked if this will include a bathroom. Michael Hoff stated that this would be a livingroom, screened porch, entry area. Brief discussion on the definition of a day-bed ensued. Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Priscilla Remington. 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. Parcel is located at 181 East Shore Drive. Gary Muller stated that the water level at the shoreline is 2 feet and the draft of the boat needs 34 inches. Gary Frenz confirmed with the applicant that this is a deck boat with a outboard motor and power trim. Gary Muller stated that with the trim up 10 inches he loses the ability to steer. Gary Frenz stated that six letters were received that are opposed to this project asking why the dock needed to be 5 feet wide. Gary Muller stated that this is a floating dock and it is in three sections. Dan Smith referred to the letters asking about the claim of water depth in that area to be 4 feet. Gary Muller stated that the water is not 4 feet deep in the area and this dock has been out 62 feet for the last two years and no one has complained. Jim Steen stated that according to the letters received the previous owners had the dock in a different location asking if the dock could be moved to the north. Gary Muller stated that the dock could not be moved to the north as that neighbor will be requesting a variance soon and he already owns and has been using this dock for the two summers. Dan Smith asked if the applicant is requesting an extension of the existing dock 62 feet more?. Gary Muller stated that the variance request is due to the fact that Gary McMeekin was at the house doing an inspection and noticed the dock out more than the maximum allowance of 40 feet requiring him to seek a variance from this board. Lengthy discussion ensued regarding the need and cost of a marine survey and where a marine survey could be obtained from. Cheryl Erickson asked if the neighbors who are opposed to this project were aware that this dock already existed for the last two summers or were confused if this would be an extension of that dock. Jim Steen suggested that the applicant measure the width of the property for possible alternative placement. Gary Muller stated that the ordinance requires a number of feet from the property lines. Gary Frenz stated that he would like to continue the public hearing until April so that the applicant can look into the costs of having a survey done of the lake bottom and alternative placement of the dock. Cheryl Erickson requested the applicant to get copies of the letters and correspond with the neighbors to see if they are understanding the request. Gary Frenz stated that this board would like an expert opinion as to the water depth in that area making a motion to continue this public hearing in April requesting information on the costs of a marine survey, results of the correspondence with the neighbors and any feasible alternatives to the placement of the dock, 2<sup>nd</sup> by Dan Smith. All Ayes.

## **PUBLIC HEARING:**

**File # 2010-06 AV Tax Map 39.14-1-9 Roger and Melanie Houck** seeking a 10 foot rear yard setback variance and a 8 foot side yard setback variance to add a 25 foot x 27 foot addition with 2<sup>nd</sup> story to existing home on parcel located ast 7987 State Rte 8. Roger Houck explained the project stating that the addition can not be accomplished on the other side of the home due to the stairs, basement and chimney. Discussion regarding the roof angle, height of addition and right-of-way ensued. Thomas Doherty stated that he is the neighbor on three sides of the Houck's and has no problems with the addition. Gary Frenz stated that Warren County Planning Board recommendation is No County Impact. Jim Steen stated that this is an 500 SFLA increase in the footprint for a total of 1500 SFLA which is still a modest size home. Cheryl Erickson stated that this is in keeping with the neighborhood and made a motion to close the public hearing, 2<sup>nd</sup> by Dan Smith. All Ayes.

## **UNFINISHED BUSINESS:**

**File # 2010-06 AV Tax Map 39.14-1-9 Roger and Melanie Houck** seeking a 10 foot rear yard setback variance and a 8 foot side yard setback variance to add a 25 foot x 27 foot addition with 2<sup>nd</sup> story to existing home on parcel located ast 7987 State Rte 8. Dan Smith stated that he would like to discuss in detail that there is no other feasible alternatives due to the basement access kitchen expansion and the house layout and this design is the most feasible for the applicant to accomplish. Cheryl Erickson stated that she agreed. Gary Frenz stated that the neighbor was in favor and this is still a single family dwelling and the total square footage of the dwelling is 1500 square feet and is in keeping with the neighborhood, asking if there would be any additional bedrooms. Roger Houck stated that there will be three bedroom upstairs as one exists now and one bathroom and is reviewing the septic with Gary McMeekin to make any changes necessary. Gary Frenz stated that if this application is approved then the septic will need to be checked and updated if necessary. Lengthy discussion ensued regarding the criteria and Cheryl Erickson made a motion to approve the 10 foot rear yard setback variance and the 8 foot side yard setback variance as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties: This project will be in keeping with the character of the neighborhood as this is modestly increasing the square footage of living area. The neighbor stated that he has no objection to the expansion. The benefits sought be applicant could not be achieved by an other means as the home layout i.e.basement access, kitchen, chimney etc prevent an expansion of the home on the other side. The existing home is already non-conforming by 2', the addition will add 5' for the expansion on the side yard. The rear of the home is not expanding, the variance request is to bring the home into compliance with the required rear yard setbacks. The

requested variance is not substantial as the rear yard setback request is 20%. The requested variance for the side yard is substantial but necessary as the home cannot be expanded in another direction as stated above. There is no effect or impact on the physical or environmental conditions in the neighborhood as the one side of the home will be closer to the neighbors property but that portion is an access road and this expansion will not encroach on any buildings. There will be no impact on the neighbors, the neighbors have expressed their recommendation for approval. The alleged difficulty was not self created as a home of 768 square feet is substandard and this is a modest increase in square footage with the Condition that the existing septic be ascertained and upgraded for the additional bedrooms.

#### **PUBLIC HEARING:**

**File # 2010-08 AV Tax Map 105.10-2-19 Christopher Johnson and Bernie Bolton** seeking a 63' shoreline setback variance to build a garage on parcel located at 4 Hayesburg Rd. Christopher Johnson stated that there is no other place on the property for a garage as the leach field and alternate fields are located around the home as indicated on the map and the new house is placed on the footprint of the old home and no area on the property can meet the 150 foot setback from the river. Cheryl Erickson asked if the garage could be place closer to the home. Christopher Johnson stated that that placement would require a larger shoreline setback variance as it is closer to the river and would also encroach on the road setbacks. After reviewing the map and discussing placement of the garage, Cheryl Erickson stated that the applicant has provided the most logical spot on the parcel to place the garage. Christopher Johnson stated that the neighbor was agreeable to this placement and was concerned that the garage would be placed next to his property. Dan Smith asked why the garage is 26 feet x 28 feet instead of a standard 24 feet x 24 feet. Christopher Johnson explained that a 24 foot garage is not wide enough as this is being used for vehicle storage and other storage as the house has no basement due to the water table and flooding issues, the new house was limited to the old footprint. Gary Frenz stated that this garage would not have a bathroom or water facilities. Christopher Johnson offered to plant trees between the garage and the river to create a buffer. Gary Frenz stated the Warren County Planning Board recommendation is No County Impact. Being no further comments or questions, Dan Smith made a motion to close the public hearing, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

#### **UNFINISHED BUSINESS:**

**File # 2010-08 AV Tax Map 105.10-2-19 Christopher Johnson and Bernie Bolton** seeking a 63 foot shoreline setback variance to build a garage on parcel located at 4 Hayesburg Rd. Cheryl Erickson stated that this board has discussed the size issue and the need for storage. Jim Steen stated that the house has no basement due to the water table and if the garage were place next to the house the garage would be closer to the river and moving it would increase the variance request and the leach field location(s) (NORWECO) prevents any change of location of the garage. Dan Smith stated that the original house footprint was used, this is a residential neighborhood with garages barns and sheds, this is moderately substantial and a minimal request to accomplish the applicant's goals, the old barn which sat next to the river was demolished but could have been used by this applicant which would have placed cars, gas cans etc closer to the lake, this garage will be placed further from the lake than the old barn. Gary Frenz stated that this garage is 2 foot shorter than other garages and the board has explored all the options for placement. Christopher Johnson stated that the color will match the house and blend in. Gary Frenz stated that this is as far away from the river as possible will out requiring other variances, is a moderately substantial request, will be a nice improvement opposed to storage of items out in the yard and the applicant has offered to plant screening between the garage and the river for privacy, the shape of the lot 87 feet x 165 feet wide prevents development without variances, the new home was built on the old footprint and a need for storage is not self created. Dan Smith made a motion to approve the 64 foot shoreline setback variance There will be no undesirable change to the character of the neighborhood or detriment to nearby properties as this is located in a residential neighborhood, not changing the use of the property, not locating it next to the neighbors property, will match existing house colors. The benefits sought be applicant could not be achieved by an other means as other property placement has been explored and negated due to septic system placement (NORWECO), topography and parcel size as variances would be needed for any placement of any accessory structure on this parcel. Any other placement of the garage on the parcel would not meet the 150' shoreline setback requirement, this request places the structure as far away from the shoreline as possible due to the size and slope of the parcel and does not allow closer placement to the road, there is no basement in the home due to a water table which prevents storage in the home. The requested variance is moderately substantial but variances would be needed for any structure on this parcel due to the size and shape. There is no effect or impact on the physical or environmental conditions in the neighborhood as the house was built on a slab due to the flood zone, as there is no other place for storage. The garage will be of minimum height and size and will be screened from the river with trees. The alleged difficulty was not self created. The difficulty is due to size and shape of the lot. The garage is not oversized for the lot and to be used for dual purposes of vehicle parking and house storage, will not have an attic, is 19' high, is not an excessive size for the dual use. This is pre-existing

non-conforming lot with the condition that the applicant plant a row of trees between garage and river to minimize erosion and view.

#### **UNFINISHED BUSINESS:**

**File #201004AV Tax Map 55.10-1-9 Anne Vandevander** seeking to modify or replace existing home on parcel located at 720 Palisades Road, Brant Lake, Kevin Mulchay stated that the increase in the footprint is to expand the room sizes but physically is a 5 feet x 4 feet increase with a height increase of 6 feet, reducing the porch to 12 feet incorporating the back deck under the roof by the screen porch, gutters to handle the storm water will be one 8 foot by 4 foot drywell and the building will be expansion will be a 12.9% increase a total of 38 feet 6 inches wide for a lot coverage of 13.5%, the bedroom will be 11 feet x 12 feet increase in the loft area 8 feet with a sloping ceiling eliminating two dormers, having one central dormer. Dan Smith asked the total height of the structure. Kevin Mulchay responded that the new structure will be 7 higher for a total of 31 feet with a 6/12 roof pitch to gain headroom in the loft with pull down stairs, there will be trusses over the screen porch that can not be converted to livable space. Dan Smith stated the increase in square footage of living area is from 900 SFLA to 1200 SFLA. Cheryl Erickson stated that the original plan was a 1700 SFLA, now with the revisions this is a 1584 SFLA home including the decks and porches. Kevin Mulchay stated that any height will not obstruct anyone view due to the slope of the property. Jim Steen stated that the applicant has addressed all the issues from last month. Cheryl Erickson stated that the applicant has reduced the project 500 square feet and took the boards concerns seriously. Jim Steen stated that this board discussed the issues regarding moving the home back on the property but due to the slope would not be feasible and the applicant is working with the existing footprint. Cheryl Erickson stated that the roof runoff has been addressed with gutters on both sides of the home, Jim Steen stated that the bedroom of 11 feet x 12 feet is modest in size, there would be no change in the neighborhood as they are replacing an existing home with a modest increase and can be considered a lateral expansion, the design and color will be consistent with the Adirondack style, green roof and brown siding, due to the topography of the lot, can not be moved back any further from the lake as there is rock ledge and blasting would need to be done, the request is substantial but not in relation to the existing house and parts of the new home are not encroaching any closer to the lake, there will be a positive effect due to the upgraded septic NORWECO system and adding the gutters and drywell will aid the rainwater runoff situation suggesting that board place a condition that the vegetation be replaced after construction to minimize erosion. Discussion ensued regarding the placement of a silt fence during construction. Jim Steen continued to state that the request was not self created as the applicant is building on the same footprint and the wind storm damaged the existing home and is pre-existing. Discussion ensued regarding the criteria with statements made by the board that the existing structure is substandard, this is a minimum addition and essentially a lateral expansion no closer to the lake the porches are of minimal size and have been downsized from 15 feet to 12 feet, this is a modest size house and has a limited placement on the parcel due to the steep slope. Dan Smith made a motion to approve the 89 foot shoreline setback variance as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties, this will still be used seasonally, this is a modest increase, this is essentially a lateral expansion, there are homes of this size in the neighborhood, the siding will be of brown with a green roof consistent with the Adirondack style. The benefits sought by the applicant could not be achieved by any other means as the applicant as reduced the size of the home as requested and due to the topography the new home cannot be moved back into the rock ledge any further, the new home will be of modest size and is not encroaching on the lake any more than the existing structure, the applicant is utilizing the existing footprint of the cottage. The requested variance is very substantial but no closer to lake than existing structure. There is no effect or impact on the physical or environmental conditions in the neighborhood as this will overall be a positive improvement due to the upgraded septic (Norwecco) the applicant has agreed to adding storm water/rain water runoff controls, replacement of vegetation to minimize erosion, silt fencing will be installed during construction to mitigate environmental impacts. There will not be any visual impact on the neighbors as the new home's roof line will be increased by 7' with a 6/12 roof pitch to gain headroom in the loft area for a total of 1200 square foot of living area and due to the slope of the property will not be visible from the neighbors presents. The alleged difficulty was not self created as this cottage is built on a hill, there is no other place for a home on this parcel, the cottage was damaged by a wind storm and needs to be repaired or replaced, square footage of existing home is substandard and the new home's square footage will be not be out of character with the neighborhood, with the condition that the applicant re-vegetate disturbed areas to minimize erosion, 2<sup>nd</sup> by Cheryl Erickson, 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. After a brief discussion, Dan Smith

made a motion to table this matter until next month, 2<sup>nd</sup> by Cheryl Erickson. All Ayes. Lengthy discussion ensued regarding the grand fathering of land with animals, odors, numbers of years goats located on parcel, farm animals versus pets and definition of pets, noise ordinance, animal control laws and possible neighbor solutions. Jim Steen stated that he feels this is a civil matter and not for this board to make a determination as the Town of Horicon has no animal control laws only dog control laws. Gary Frenz stated that the Steering Committee has discussed animals and the number of animals for each zone and that information was presented to the Town Board and the Town Board threw it out. Cheryl Erickson agreed that this situation cannot be described as a farm, Mike Hill stated that there is a question before this board that must be addressed and the applicant has applied to this board to be defined as a Farm, Full or Part Time. Dan Paull asked if the variance request could be withdrawn as he's intent was not to be defined as a farm, just wants his daughter to keep her pets that she works with and takes to the fairs. Discussion ensued regarding the Town Board's responsibility to enact an animal control law and the classification of a farm animal versus a pet and a property owner's ability to state any animal as a pet and the clarification of the ordinance. Mike Hill stated that the applicant has the ability to withdraw their application and then it would be up to the Zoning Administrator to make a determination of pets versus farm animals. Cheryl Erickson stated that this situation is not a farm but a pet issue and can't understand how this board can rule on this issue, there needs to be some dialog between the neighbors as this is not a farm but a pet issue and may be needed to dealt with the Town Board with a noise issue. Jim Steen stated that the applicant's intent is not to operate a farm as they are not selling any animal products such as goats milk, goat meat and there is no husbandry as the goats have been fixed, these are pets and the application is here only because of a neighbor's complaint. Dan Paull stated that he would like to withdraw his application for a Farm. Mike Hill stated that if the applicant formally withdraws his application, the next step would be for the Zoning Administrators to make a determination if the property owner is operating a Farm, Full or Part Time. If the Zoning Administrator determines this is a Farm then the applicant can appeal that determination, farm animals versus pets. Dan Smith made a motion to table this application until information is received from the applicant, 2<sup>nd</sup> by Curt Castner. 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. Gary Frenz stated that the applicant was not present and stated that the variances are being sought for the remaining lot, the portion being gifted to his daughter meets the minimum area criteria for that zone, suggesting that the application be tabled til next month due to the lateness of the hour. Priscilla Remington made a motion to table this application until next month, 2<sup>nd</sup> by Dan Smith. All Ayes

#### **BOARD PRIVILEGE:**

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 11:10 PM

Respectfully Submitted.  
Christine Smith-Hayes, Secretary