

# Town of Horicon

## ZONING BOARD OF APPEALS

### Minutes of May 25, 2010

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

**Members Absent:** Priscilla Remington

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

**Guests Present:** Bill McGhie, Peter Oberdorf, Trevor Labarge, Victoria Paull, Deanne Paul, Dean Wilson, Steven L. Smith, D Schweigard, Jim Hayes, Ron Chowskuy, Eugene Lewis

#### Pledge

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

Jim Steen requested that the Horicon Fire Dept's application be heard first on the agenda.

#### NEW BUSINESS:

**File #2010-10AV Tax Map # 37.-1-26.2 Brian and Tracy Johnson** seeking variances to subdivide parcel located at 136 Johnson Rd. The applicant is obtaining a survey of the property at this time and will submit the information as soon as it is available. Cheryl Erickson made a motion to table this application until the survey is submitted, 2<sup>nd</sup> by Dan Smith. All Ayes.

**File # 2010-20A Tax Map # 89.5-1-11 Dan and Deanne Paull** seeking an appeal of the Zoning Administrator's determination regarding the definition of Farm - Full or Part Time. Deanne Paull stated that this property is not being used as a farm and the goats are not livestock. Gary McMeekin stated that 2 options were presented to him 1) the goats would be moved to the neighbor's property or 2) the goats would be removed from the property in September and asked Deanne Paull if these options were viable. Deanne Paull stated that she is waiting for a decision before going further with those two options and submitted a photo of the goats walking on their hind legs. Gary McMeekin stated that he received a second complaint from an adjoining land owner. After a brief discussion, Dan Smith made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Curt Castner. All Ayes.

#### PUBLIC HEARING:

**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 a new plan has been submitted increasing the addition size from 20' x 26' to 20'x 28' and additional two feet on back of the addition and this still meets the side yard setback and will not require any additional variances. Gary Frenz asked if anyone had any comments or questions. Being no comments or questions, Jim Steen made a motion to close the public hearing, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

#### UNFINISHED BUSINESS:

**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. Gary Frenz stated the recommendation from the Warren County Planning Board was default approval due to lack of quorum. After a brief discussion Dan Smith made a motion to approve the 11' rear yard setback variance as there is no undesirable change to the character of the neighborhood or nearby parcels as this is an addition at the rear of the property, the benefit sought by the applicant cannot be achieved by any other means feasible as this is the only area that can be expanded. The requested area variance is a substantial request but necessary, there is no adverse environmental or physical impact, this was not self created and this is the minimum variance necessary, 2<sup>nd</sup> by Curt Castner. All Ayes.

## **PUBLIC HEARING:**

**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 Schweigard from Independent Towers stated that the two proposed, one is proposed for AT&T use and the other is for future expansion, they will be painted olive green and screened with a branching pattern, this application has not been submitted to the APA yet as local approval is needed. Dan Schweigard continued on to say that he is working on approximately twelve projects with eight to nine tower locations. Dan Smith asked if this request replaces the tower proposed in Bolton. Dan Schweigard stated that this does not replace the tower in Bolton but would be a connection to that area, there are proposed towers at exit 24, 25, and 27, the Bolton tower is on hold due to storm-water issues, these proposed towers are 1,000 feet off of East Schroon River road and the road to the towers is approximately 2,200 feet long, the towers would only be visible for 3/10th of a mile on Northway and will not be visible locally. Steven Smith stated that there are health and safety issues with cell towers and they are allowed to be built fifty feet from a property line according to the Town's ordinance. Mike Hill stated that he understands projects are controversial but as a matter of law the Federal government does not permit this board to take into effect the health and safety effects as it is not within this board's jurisdiction. Questions and comments regarding the vegetative cutting, the type of material used for screening, the existing towers in the area and gap coverages. Dan Schwiegard stated that they were required to do a tree survey to allow cutting in a 200' radius which is protected by a legal document, this will protect the visual buffer area around the towers. Dan Schwiegard continued to state that this would be an expansion of the coverage area, there will not be any lights on the poles, there is no air space impact. Steven Smith stated that he is an adjoining property owner and cell towers severely decrease property values and ignoring the health risks affects livestock. Mike Hill advised the board of his earlier statement. Steven Smith stated that this project has an adverse financial effect, the view shed, wintering area for animal population. Discussion ensued regarding zoning ordinance uses by right, the use of other tall structures in the area and the potential for the road to be used for atv's. Gary McMeekin stated that a conditional use will be required. Dan Schwiegard stated that cell phone companies are required to continue expanding coverage areas. Peter Oberdorf asked if the road could be shortened. Dan Schwiegard stated that the road is the largest expense of the project and would like to shorten the road but cannot. Discussion ensued regarding the lease/tree cutting of the property. Mike Hill stated that this board would grant the minimum variances necessary suggesting that this board deal with one tower for now as the applicant can come back to the board in the future if a second tower is needed. Discussion ensued regarding feasible alternatives. Dan Smith made a motion to continue the public hearing pending further information regarding other potential sites (Sunoco Sign), 2<sup>nd</sup> by Curt Castner. All Ayes.

## **PUBLIC HEARING:**

**File # 2010-15 AV Tax Map 39.17-1-10 Stanley Rusak** seeking a 24' shoreline setback variance and a 29' roadway setback variance to build a 8' x 12' shed on parcel located at 7809 State Rte 8. Gary Frenz asked if anyone had any comments or questions. Being no 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 # 2010-15 AV Tax Map 39.17-1-10 Stanley Rusak** seeking a 24' shoreline setback variance and a 29' roadway setback variance to build a 8' x 12' shed on parcel located at 7809 State Rte 8. Gary Frenz stated that the Warren County Planning Board recommendation is a default approval due to lack of quorum the APA reversed this boards decision on a 10' x 14' shed proposed in the same area. Gary Frenz continued to say that this shed would be used to store gas, paint and other items. Thad Smith stated this board reviewed the ability to place the shed on the other side of the home and the neighbor to the south had an objection to the placement of the shed and the slope of the property does not allow the shed to be placed in that area and no matter where the shed sits, variances would be required. After a brief discussion, Gary Frenz made a motion to approve the 24' shoreline setback and the 29' roadway setback variance as there will be no undesirable change to the character of the neighborhood or detriment to nearby properties: as this is a 10' x 10' shed to store gas and lawn mowers in a well ventilated area and there are small sheds on neighboring properties. The benefits sought be applicant could not be achieved by any other means as the applicant has reduced the shed size to less than 100 square feet, placement on the other side of the house would be encroaching on the neighbor, the land is not level and this shed cannot be placed near the driveway. The requested shoreline variance is substantial but placement of the shed on another portion of the property is not feasible as to the slope of the land and the existence of rocks. There is no effect or impact on the physical or environmental conditions in the neighborhood as this is above the lake level, will be screened by trees and will blend in with the house color. The alleged difficulty was self created but the proposed shed is minimum in size, less than 100 square feet. The shoreline of this property winds around the parcel making it a difficult parcel to build on, 2<sup>nd</sup> by Dan Smith. 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. The applicant has stated that they are revising their plans and will submit the new plan for the June meeting. Gary Frenz made a motion to table this application until the June meeting, 2<sup>nd</sup> by Jim Steen. 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 due to the filing of the appeal.

**BOARD PRIVILEGE:** Charles Hayes' variance was overturned by the APA, more information forthcoming. Training session June 15<sup>th</sup>, Queensbury Hotel.

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 9:15 PM

Respectfully Submitted.  
Christine Smith-Hayes, Secretary

DRAFT