

# Town of Horicon

## ZONING BOARD OF APPEALS

### Minutes of November 23, 2010

**Members Present:** Gary Frenz, Priscilla Remington, Cheryl Erickson, Jim Steen, Curt Castner, Alternate: Thad Smith

**Members Absent:** Alternate Dan Smith

**Others Present:** Counsel to Boards Mike Hill, Zoning Administrator Gary McMeekin, Planning Board Member: Matt Simpson,

**Guests Present:** Tommy Johansen, Janet and Michael Thomsen, Eric Byrne, Dan Smith, Joe and Carol Ann Stursberg, Bill McGhie, John MacMillen, Alice Altieri, Nancy and Craig Smith, Michael Hough.

### Pledge

Regular Meeting called to order by Chairman, Gary Frenz and stated that Dan Smith may attend in order to approve the August minutes. Cheryl made a motion to accept the October minutes as corrected 2<sup>nd</sup> by Priscilla Remington. All Ayes.

### NEW BUSINESS:

**File # 2010-37 AV Tax Map 54.2-1-14 Philip and Susanne Caunter** seeking a 130' roadway frontage variance to adjust boundary lines of parcels located on 341 Pease Hill Rd. Attorney Dan Smith stated that there is an overlap of titles for the two properties, this parcel is now conforming but the boundary line adjustment will make it non-conforming and there will be a 30' increase in road frontage for the Farmer lot. After a brief discussion, Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Jim Steen. All Ayes.

**File # 2010-38 AV Tax Map 38.1-2-2 Edward and Lisa Marks** seeking a 35' roadway setback variance to build a 24'x 24' garage on parcel located on 277 Beaver Pond Road the applicant is being represented by Michael Hough - Morse Construction. Michael Hough stated that this garage would sit across the road from the residence, would be 2 car with a loft for storage and designed similar to the house. After a brief discussion, Jim Steen made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

### PUBLIC HEARING:

**File # 2010-33A Tax Map 37.-1-57 Janet Thomsen** seeking an appeal of the Zoning Administrator's determination for the need of a zoning compliance for a structure and County Building permit for a structure over 144 sq. ft. and compliance with town sanitary codes Section 17.80 and 17.81. Janet Thomsen submitted her original copies of the Zoning Compliance and Septic applications. Gary Frenz asked if anyone had any comments or questions. Cheryl Erickson stated that she failed to see trees in the photos and asked if this touched the ground, continuing on to state that the trees were no longer alive, therefore the trees are now considered a building material, wood. Janet Thomsen stated that the trees are supporting the structure and this is a treehouse as there is no plumbing, no heating, no bathroom, it is not used year round but as a hang out in the summer with a fire pit. Janet Thomsen continued on to state that this is built into the trees, not a cabin, not a single family home but a treehouse. Jim Steen stated that this is a structure, just as a shed is a structure. Cheryl Erickson stated that this has a walk-up porch, no ladder. Janet Thomsen stated that this is a temporary walkway. Cheryl responded that nothing looked temporary. Priscilla Remington stated that this is still a structure. Janet Thomsen stated that she is willing to comply with the town but will not allow a septic system. Gary Frenz stated that any structure over 144 square feet is required to follow NYS building codes. Gary McMeekin stated that this structure needs permits from Warren County even if it is a hang out for the kids and will need some sort of facility for waste water and some day could be sold. Priscilla Remington asked the applicant if she realized a permit was needed. Janet Thomsen stated that she purchased the Zoning Code and a treehouse was not listed.

Gary Frenz stated that the Zoning Code states **“Any uses not listed above shall be considered a prohibited use”**, this was brought to the Zoning Administrator by a Town Board member as a complaint.  
Joe Strusberg stated that he is a neighbor and this structure was built in a deer run, concerned that shooting is being done within 500 feet of his home and concerned about the stability of the structure.  
Janet Thomsen stated that all of the minimum requirements for setbacks have been met.  
Priscilla Remington asked if there is hunting there.  
Janet Thomsen stated no  
Cheryl Erickson stated that the applicant stated that there was hunting at the October meeting.  
Janet Thomsen stated that there are tree stands on the property but she has no control over who uses them.  
Cheryl Erickson made a motion to close the public meeting, 2<sup>nd</sup> by Priscilla Remington. All Ayes.

#### **UNFINISHED BUSINESS:**

**File # 2010-33A Tax Map 37.-1-57 Janet Thomsen** seeking an appeal of the Zoning Administrator's determination for the need of a zoning compliance for a structure and County Building permit for a structure over 144 sq. ft. and compliance with town sanitary codes Section 17.80 and 17.81.  
Gary Frenz stated that this is a 12' x 18' or 432 square foot building.  
Cheryl Erickson stated that this is a structure and it is larger than what Warren County and the Town would allow without inspections and the board will need to look at it as a structure not a treehouse and if it fits the requirements of a building permit.  
Jim Steen stated that maybe a clubhouse might be exempt from the sanitary codes  
Gary McMeekin stated that this board has no authority over septic regulations and that outhouse or privy's are not allowed.  
Mike Hill. Counsel suggested that the board work off a written draft decision.  
Lengthy discussion ensued regarding definition of a structure, Section 17.80, 17,81 and septic regulations along with Section 5 and 5.1.  
Jim Steen made a motion to table this matter and draft a decision to be reviewed at the January 25<sup>th</sup>, 2011 meeting, 2<sup>nd</sup> by Priscilla Remington. All Ayes

#### **PUBLIC HEARING:**

**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. Gary Frenz stated that the applicant's representative Matt Fuller has requested this matter be tabled for one more month. Cheryl Erickson made a motion to table this matter, 2<sup>nd</sup> by Priscilla Remington. All Ayes.

#### **PUBLIC HEARING:**

**File # 2010-32 AV Tax Map 55.17-1-23 Byrne, Gerald** seeking a fifty-three foot shoreline setback variance to expand home with a new entry, screen porch and dining room on parcel located at 500 Palisades Road, the applicant is being represented by John MacMillen. Eric Byrne, the applicant's son stated that the addition would shift the south-east corner to the south-west corner, no additional bedrooms. Cheryl Erickson asked if trees would be removed for this project. John MacMillen stated that smaller trees will be re-located 30' back from the lake. Eric Byrne stated that 60 trees were recently planted on the property replacing diseased tree that were removed. Gary Frenz asked if anyone had any comments or questions, Being no further comments or questions, Cheryl Erickson made a motion to close the public hearing, 2<sup>nd</sup> by Curt Castner. All Ayes

#### **UNFINISHED BUSINESS:**

**File # 2010-32 AV Tax Map 55.17-1-23 Byrne, Gerald** seeking a fifty-three foot shoreline setback variance to expand home with a new entry, screen porch and dining room on parcel located at 500 Palisades Road, the applicant is being represented by John MacMillen. The board reviewed the criteria stating that this project would be exempt from SEQRA review.1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties: This is a minimum change and will be screened by trees and is a desirable change.

This is a pre-existing, non-conforming property, this is a minor shift in the footprint and this is a desirable change as the shift will "give back" 3' on the opposite side of the addition. 2) The benefits sought by applicant could not be achieved by any other means as this is an expansion of 4' taking into consideration the location of the dining room. Home was built in 1980. 3) The requested variance is substantial numerically, with a minimal change and the alterations are shifting the home away from the lake side that not screened by trees. 4) There is no effect or impact on the physical or environmental conditions in the neighborhood as the applicant has recently planted 60 trees. The expansion is being done on the side of the property with the trees, creating less of a visual impact on the section of the property with a view to the lake. 5) The alleged difficulty was not self created as the shape of the land does not allow for any additions without a variance. The applicant has made a conscience decision to make this a minimal expansion to have a minimal effect on the shoreline

Imposing Conditions: Require the applicant plant shrubbery on lakeside of home reducing any visual effect of stairs.

#### **BOARD PRIVILEGE:**

Alice Altieri addressed the board regarding an application for zoning compliance submitted to the Zoning Administrator. After a lengthy discussion and debate, Alice Altieri requested that her variance application be placed on the December agenda. Gary Frenz suggested that a new survey be done plotting the footprint of the new building on the map.

Charles Hayes reversal discussion

Vouchers handed out.

Saratoga County Planning and Zoning Conference scheduled for January 26, 2011.

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 9:45 PM

Respectfully Submitted.

Christine Smith-Hayes, Secretary