

Town of Horicon

ZONING BOARD OF APPEALS

Minutes of September 23, 2008

Members Present: Priscilla Remington, Curt Castner, Gary Frenz, Dan Smith, Marion Luce, Alternates Cheryl Erickson, James Steen.

Others Present: Counsel to Boards Michael Hill, Zoning Administrator Gary McMeekin,

Guests Present: John Whiteman, Greg Beckler, George & Concietta Haeberle, Frank Heidinger, Alan Lecours, Robert Yuaes, Lynn Keil, E.V. Tear, Josephine & LeRoy Flammer, Erin & Mike Hayes, Mick & Pat Butler, Sam & Tina Maltbie, Viv & Les Speiser, Cliff & Maryjane Bouchard, Carolyn Anderson, Jennie & Lou Lazaro, John Cain, Jane Smith, Tina Sweetser, Harry Katsch, Robert Kelso, Thad Smith, Mary Bunch, Mark Carpenter, Jean & Larry Southworth, Jeff Whiteside, Roger Friedman, Jerry & Mary DeGiovanni, Serge & Carol Tarasenko, Lucille Guthrie, LouAnn Davenport, Harry Robinson, Dianne Dreyer, Daniel J, Kimberly Frazier, Peter Beletti, Ted Schaap, Tom Ryan, John Grady, Jim Wallace, Attorney Dan Smith and others.

PUBLIC HEARINGS:

File # 2008-26 AV Tax Map 20.13-1-14 Mark and Brenda Carpenter - seeking 4' side yard setback variance to remove existing shed and replace with a garage. Mark Carpenter explained the project. Mark Carpenter stated that the shed is to be removed to build a 2 car garage for future year round use. Priscilla Remington stated Warren County Planning Board recommendations No County Impact. As there were no comments or questions, Priscilla Remington made a motion to close the public hearing, 2nd by Curt Castner. All Ayes.

File # 2008-27 AV Tax Map 89.5-1-7 William and Rose Eddy - seeking front yard and rear yard setbacks to build home with porch and deck on parcel located at 149 Duell Hill Rd. Attorney Dan Smith representing the applicant explained the project. Being no comments or questions, Curt Castner made a motion to close the public hearing, 2nd by Dan Smith. All Ayes.

File # 2008-28 AV Tax Map 20.10-1-49 Eric and Karyne Aabel - seeking a 30' shoreline variance and a 25' roadway setback variance to reconstruct home, located at 835 East Shore Dr. Discussion ensued with audience members regarding the height of the new structure and the required setbacks after which Gary Frenz made a motion to close the public hearing, 2nd by Curt Castner. All Ayes.

File # 2008-29 AV Tax Map 71.20-1-31 Frank Heidinger - seeking a 42' roadway setback and a 7' side yard setback to construct two (2) entrance pillars on parcel located at 6874 State Rte 8. (Mailbox enclosure). Mr. Heidinger stated that he has spoken with the USPS and DOT regarding this project. The correspondence from the DOT is included in the file. Being no comments or questions, ZBA member Dan Smith made a motion to close the public hearing, 2nd by Curt Castner. All Ayes.

File # 2008-14 AV Tax Map 55.17-2-21 Altieri and Probst seeing a 52' shoreline setback a 46' roadway setback and a 5' side yard setback variance to build a small cottage on existing footprint of two (2) car garage. Erin Hayes, representing the applicant sent a letter requesting the public hearing be continued. Priscilla Remington stated that the applicant has requested the public hearing be tabled and would take any questions or comments from the audience. Discussion ensued regarding the APA site visit and results of that visit, wetlands, and JIF form. Member Dan Smith made a motion to continue the public hearing until the November 28th meeting, 2nd by Marion Luce. All Ayes.

File #2007-36UV Tax Map 53.-3-1 Vandermark (EZ Marine & Storage) seeking a Use Variance and Area Variances to establish a Commercial Marina on parcel located on East Schroon River Rd in the RRD-10 acre zone. The applicant has requested the application be tabled until further information can be gathered and forwarded to the Warren County Planning Board. Audience members spoke in favor and against the project. Several questions were taken regarding board and APA procedures. Discussion ensued with the applicant as to the ability to have information available. Priscilla Remington made a motion to have any new information be reviewed at the December regular meeting and hold a public hearing on the new information at the regular meeting in January 2009, placing a legal notice in the Adirondack Journal, 2nd by Gary Frenz. All Ayes.

The Regular meeting of the ZBA was called to order by Chair Priscilla Remington Dan Smith made a motion to approve the June minutes, 2nd by Priscilla Remington All Ayes. Dan Smith made a motion to approve the July minutes as amended, 2nd by Marion Luce. All Ayes. Marion Luce made a motion to approve the August minutes, 2nd by Dan Smith. All Ayes.

UNFINISHED BUSINESS:

File # 2008-26 AV Tax Map 20.13-1-14 Mark and Brenda Carpenter - seeking 4' side yard setback variance to remove existing shed and replace with a garage. Mark Carpenter explained the project. Discussion ensued regarding any alternate placement of the garage other than the proposed site. SEQRA was reviewed by the board. ZBA member Dan Smith made a motion to declare a negative declaration, 2nd by Gary Frenz. ZBA Member Dan Smith stated that he felt there was no good alternate location for this garage and made a motion to approve the four foot (4') side yard setback variance as requested as 1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties. 2) The benefits sought by applicant cannot be achieved by other means, as this is the most feasible area to place the garage. 3) This request is not substantial. 4) There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood. 5) The alleged difficulty was not self created, 2nd by Curt Castner. All Ayes.

File # 2008-27 AV Tax Map 89.5-1-7 William and Rose Eddy - seeking front yard and rear yard setbacks to build home with porch and deck on parcel located at 149 Duell Hill Rd. Mike Hill stated that the SEQRA review was completed at the Planning Board for the approved Boundary Line Adjustment. After a brief discussion Curt Castner made a motion to approve the 23'7" front yard setback and the 31'6" rear yard setback variances as requested as 1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties. 2) The benefits sought by applicant cannot be achieved by other means, as this is the most feasible area to place the house. 3) This request is moderately substantial. 4) There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood. 5) The alleged difficulty was not self created, 2nd by Gary Frenz. All Ayes.

File # 2008-28 AV Tax Map 20.10-1-49 Eric and Karyne Aabel - seeking a 30' shoreline variance and a 25' roadway setback variance to reconstruct home, located at 835 East Shore Dr. Warren County Planning Board recommended No County Impact with stipulation that the applicant address the septic and water source capacity and compliance, storm water and erosion control measures and site grading. Discussion ensued regarding any negative visual impact on the neighbors, and whether this would change the characteristics of the neighborhood. SEQRA was reviewed by the board. ZBA member Dan Smith made a motion to declare a negative declaration, 2nd by Gary Frenz. All Ayes. ZBA member Dan Smith made a motion to approve the 30' shoreline setback and 25' roadway setback variance as 1) There will be no undesirable change to the character of the neighborhood or detriment to nearby

properties as it will not block the view from neighboring homes, no objections voiced by neighbors. 2) The benefits sought by applicant cannot be achieved by other means, as this is the most feasible area to place the house and is being placed no closer to the shoreline than the existing dwelling. 3) This request is moderately substantial. 4) There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood. 5) The alleged difficulty was not self created, 2nd by Curt Castner. All Ayes.

File # 2008-29 AV Tax Map 71.20-1-31 Frank Heidinger - seeking a 32' roadway setback and a 2' side yard setback to construct two (2) entrance pillars on parcel located at 6874 State Rte 8. (Mailbox enclosure). Parcel is located in the CR-20,000 zone. SEQRA was reviewed by the board. Gary Frenz made a motion to declare a negative declaration, 2nd by Marion Luce. All Ayes. ZBA member Dan Smith made a motion to approve the 32' roadway setback and the 2' side yard variance as 1) There will be no undesirable change to the character of the neighborhood or detriment to nearby properties. NYS DOT correspondence stating out of state row. 2) The benefits sought by applicant cannot be achieved by other means. 3) This request is not substantial. 4) There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood. 5) The alleged difficulty was not self created, 2nd by Curt Castner. All Ayes.

File #2008-20 AV Tax Map 71.12-1-29 Pine Tree Properties LLC seeking a area variance for density to construct a multi-family townhouse unit on existing footprint located at 233 Palisades Rd. Discussion publicized regarding the road frontage of the parcel, screening and lighting and sq. footage of the proposed building and the prior use of the property. The board reviewed some details of the draft decisions, advising town counsel Mike Hill to revise both drafts. Lengthy discussion ensued regarding the Zoning Administrator's determination as to the prior use and dates of use of the hotel and the need for clarification of prior use. The board questioned the applicant as to the information supplied to the APA. Erin Hayes stated that she supplied the APA with the phone directory, hotel website, listings and a signed affidavit from a customer stating they paid money in August 2007. Further lengthy discussion ensued regarding the use of the property, occupancy taxes, amount of the variance requested, and Real Estate Agent statements. The board requested town counsel Mike Hill to revise both drafts page 4 #6 and noted changes on the approval draft to pages 1,2,3,4. Mike Hill advised the board that they could direct the Zoning Administrator to review any information the applicant provides to make a determination as to the prior use and the dates of such use within one (1) year of the application for variance. Erin Hayes requested a five minute break to confer with her clients after which she requested the board table the application and will submit information to the Zoning Administrator regarding dates of use. The board established a deadline of October 13th, 2008 for legal notice publication to the Adirondack Journal renoticing a public hearing on any additional information submitted, confirming that a decision would be made on October 28th if no new information is submitted. Mike Hill repeated to the board that the applicant is agreeing to table the application and submit additional information by October 13th. Mike Hill then stated that if no new information is submitted the board will make a decision at the October 28th meeting. Gary McMeekin stated that he would use the date of June 11, 2007 as the one year time limit of continued use. ZBA Dan Smith made a motion to table the application requesting the applicant submit additional information to the Zoning Administrator with evidence of rentals/usage of the hotel from June 11, 2007 to date of destruction and if no information is submitted a decision will be made at the October 28th meeting, 2nd by Priscilla Remington. All Ayes.

NEW BUSINESS:

File #2008-30AV Tax map 72.-1-57.8 David O'Conner seeking area variances to add deck, steps, install fence and install 2 deck sections on shore of parcel located at 7131 State Rte 8. Cheryl Erickson asked if the applicant would be removing any trees and what is the height of the proposed fence. Gary McMeekin stated that the fence is designed to be six foot (6') high and the applicant would not be removing any trees. After reviewing the application, ZBA Member Dan Smith made a motion to deem the application complete and schedule a public hearing, 2nd by Gary Frenz. All Ayes

File #2008-31AV Tax map 36.11-1-9 Weber, Stuard and Dinger seeking a 50' shoreline setback and a 34' roadway setback variance to build stairs and platform on parcel located at 366 East Shore Dr. Applicant was advised that the Authority to Act as Agent from the additional property owners has not been received. Discussion ensued regarding the drawing that shows the deck eight feet (8') from the lake when in fact the deck will be located on the shoreline. Gary Frenz made a motion to deem the application complete on the condition that the Authority to Act as Agent is received by October 13th for legal notice publication, 2nd by Marion Luce. All Ayes.

Board Privilege:

There being no further business before the board, Chair, Priscilla Remington adjourned the meeting at 12:10 AM

Respectfully Submitted.

Christine Smith-Hayes, Secretary