

TOWN OF HENDERSON ZONING BOARD OF APPEALS AGENDA

12105 TOWN BARN ROAD, HENDERSON, NY

June 21, 2023 AT 6:00 PM

**Committee Members: Jerry Tackley, Chairman and Robert Aliasso, Fredrick Caswell Jr., Joan Treadwell Woods, Julie West
Dean Witmer-Alternate**

CALL TO ORDER

ATTENDANCE and PLEDGE: Jerry Tackley, Joan Treadwell Woods, Rob Aliasso, Dean Witmer, Fred Caswell

Eric Sheldon, ZEO, Jeff Fargo, Tim Roberts, David Poulin, Joe Fedorko

By phone – Mr. and Mrs. Stephen Hays

ANNOUNCEMENT

All matters heard by this Zoning Board of Appeals are in the form of a public hearing. Everyone desiring to be heard will be heard. Before speaking, you are asked to state clearly your name and address. There are two types of matters that come before this Board. They are Variances and Interpretations. The application will be denied unless the applicant has proven his/her case.

Town Board Resolution adopted September 10, 1992 - NOW, THEREFORE, BE IT RESOLVED, that the Town of Henderson hereby agrees that the following actions shall be considered to be of a local rather than of inter-community or county-wide concern and shall therefore be exempt from referral to the County Planning Board pursuant to General Municipal Law, Section 239m: All area variance for lot size or lot width, if the required lot line setbacks can still be maintained; All single and two-family residential set-back variances (including those for manufactured homes, modular homes) unless the requested setback is adjacent to either a State or County property line, exclusive of State or County highways; All front, rear, and side lot line set back variances for accessory structures (i.e. garages, sheds, decks, etc.) unless the requested setback is adjacent to either a State or County property line, exclusive of State or County highways; All use variances for single and two-family residences; All use variances for home occupations.

The hearings shall begin at the designated day, time and place as advertised. A presentation of the project will be made. After the presentation, written correspondence will be identified and read. Thereafter public comments will be entertained. All those who wish to speak must sign in. There will be a limit of three (3) minutes. You will be called in the order you signed in. All comments should be preceded by the person giving their name and general address. There will be no interruptions or cross-conversations in the audience.

If one or more Board member(s) is/are absent all applicants are offered to wait for a full Board if they are more comfortable or may decline the offer.

**** CONFERENCE CALL ****

Request of Stephen Robert Hays, Trustee

Located at 11675 Ramsey Shores W

On Parcel #98.50-1-13

In LF

Bordering Property owned by Timothy and Diane Cozad, Stephen Hays, Trustee, and Joseph and Marie Claude Delorme Fedorko.

Request to build a garage.

DISCUSSION – Case previously adjourned to allow consideration of alternatives to reduce variance as required by Area Variance Checklist. One option was more land -- Joe Fedorko, neighbor who sold them land previously does not want to sell any more land.

There was much discussion from applicants regarding the previous variance granted to neighbors in 2012 and whether the same ruling should be considered for them today.

After much discussion and the ZBA indicating all the options available. The options presented were –

- a. Vote on application as presented
- b. Vote on the negotiated feasible alternative, or
- c. Adjourn hearing and applicant seek legal advice.
- d. A fourth option was discussed, that is applicant sought remedy in b. and variance granted, if after legal advice they applied for greater variance. Jerry Tackley explained that super-majority was required to modify a granted variance.

Fred Caswell questioned whether they conceded under duress.

PUBLIC COMMENTS:

None at this time.

COMMENTS FROM ZEO:

Suggested they might want to speak with their attorney.

SEQR MOTION by Rob Aliasso_, second by Fred Caswell declares the proposed action to be a **TYPE II – 16 Action** under Article Eight of the NYS Environment Conservation Law, which determines there is no significant impact on the environment and no further review is necessary.

Roll Call voting **5-Yes** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Dean Witmer, Fred Caswell.

CLOSE PUBLIC HEARING MOTION by Dean Witmer_, second by Joan Treadwell Woods to adjourn and close the public hearing.

Roll Call voting **5-YES** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Dean Witmer, Fred Caswell.

AREA VARIANCE CHECKLIST

FACTORS CONSIDERED

1. Whether undesirable change would be produced in the character of neighborhood or a detriment to nearby properties? () Yes (5) No

Reasons:

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: () Yes (5) No

Reasons: Modified application for feasible alternative by reducing setback by 4'.

3. Whether the requested variance is substantial: (2) Yes, RA, JTW, (3) No – JT, DW, FC
Reasons: The granted 11' and 16' variances – 50% average
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: () Yes (5) No
Reasons:
5. Whether the alleged difficulty was self-created: (5) Yes () No
Reasons:

DETERMINATION OF ZBA BASED ON ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors and motion, finds that

() the Benefit to the Applicant DOES NOT Outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied .

(x) the Benefit to the Applicant DOES Outweigh the Detriment to the Neighborhood or Community and therefore the variance and motion request are granted.

Roll Call voting 5-YES : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Dean Witmer, Fred Caswell.

Request of Kevin and Florence Chatfield

Located at 14921 Lower Hovey Tract Road

On Parcel 97.15-1-21

In LF

Bordering Property owned by Kyle F. Proia, Susan Griffen, Casey A. Hanson, Patricia M. Garvey Life Tenant/Kathleen G. Carey, Wayne and Renee Starks and Jay and Gwen Brown.

Request to build addition on front of cottage with a deck.

DISCUSSION

Jeff Fargo, Contractor represented the Applicant – Non-conforming lot, would like to build a 12 x 16 addition and larger deck on the front of the cottage. Looking for a 10” variance on the front for the deck. This is being built on the side of a hill up to an existing concrete retaining wall at the front of the proposed deck.

Board stated building addition is fine, deck is the issue. The application as presented requires the following , west side needs a 10’ variance, East side needs 9’ variance, 102’ toward the lake on the front.

PUBLIC COMMENTS:

East side is the concern, don’t have an accurate number on the deck. Addition is in compliance.

COMMENTS FROM ZEO:

Keep it parallel to existing deck inside point, or preferred cottage.

SEQR MOTION by Rob Aliasso , second by Joan Treadwell Woods declares the proposed action to be a **TYPE II – Action 16** Action under Article Eight of the NYS Environment Conservation Law, which determines there is no significant impact on the environment and no further review is necessary. Roll Call voting **5-YES** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Dean Witmer, Fred Caswell.

CLOSE PUBLIC HEARING MOTION by Joan Treadwell Woods , second by Dean Witmer to adjourn and close the public hearing. Roll Call voting **5-YES** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Dean Witmer, Fred Caswell.

AREA VARIANCE CHECKLIST

FACTORS CONSIDERED

1. **Whether undesirable change would be produced in the character of neighborhood or a detriment to nearby properties? () Yes (5) No**
Reasons:

2. **Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: () Yes (5) No – Feasible alternative met during discussion to reduce side yard requested variances.**
Reasons:

3. **Whether the requested variance is substantial: (5) Yes () No**
Reasons: Over 50% of requirement for granted variance on one side – 9’

4. **Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: () Yes (5) No**
Reasons: Can’t build closer than 10’ to West

5. **Whether the alleged difficulty was self-created: (5) Yes () No**
Reasons:

DETERMINATION OF ZBA BASED ON ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors and motion, finds that

- () the Benefit to the Applicant **DOES NOT** Outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied .
- (x) the Benefit to the Applicant **DOES** Outweigh the Detriment to the Neighborhood or Community and therefore the variance and motion request are granted.

Roll Call voting **(5-YES)** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Dean Witmer, Fred Caswell

MOTION by Joan Treadwell Woods , second by Rob Aliasso to accept the April 19 , 2023 meeting minutes. Roll Call voting (5-YES): Robert Aliasso, Jerry Tackley, Joan Treadwell Woods, Dean Witmer, Fred Caswell.

BUSINESS: Next meeting on July 19, 2023.

MOTION by Rob Aliasso, second by Joan Treadwell Woods adjourns the meeting.

Roll Call voting (5-YES) : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Dean Witmer, Fred Caswell.

Respectfully Submitted

**Mary M. Cornell,
ZBA Clerk**