

TOWN OF HENDERSON ZONING BOARD OF APPEALS MEETING MINUTES

12105 TOWN BARN ROAD, HENDERSON, NY

August 21, 2024 AT 6:00 PM

Committee Members: Jerry Tackley, Chairman and Robert Aliasso, Jaclyn Wenschhof., Joan Treadwell Woods, Julie West
Dean Witmer-Alternate

CALL TO ORDER

ATTENDANCE and PLEDGE: Jerry Tackley, Rob Aliasso, Julie West, Joan Treadwell Woods, Jackie Wenschhof

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.

****HEARING #1-**

Request of Donna Pogue

Located at 7123 Little Rochester Lane, 15118, 15122 Snowshoe Road

On Parcel #97.15-2-15

In LF

Bordering Property owned Matthews-Fox, Jeanne

Request for Interpretation of fences and hedges regulations.

DISCUSSION:

Jerry read ZEO's description per zoning law— copies previously sent to all board members. (attached). Per Donna Pogue the neighbors, Fox family, put a fence up in October 2023 but they did not secure a permit until 2024. They also planted trees and added chicken wire to the 6' posts which were then cut to 3'. The intent of the trees was to form a barrier. The wire should be on Fox family side per zoning. The fence

and its components (wire, posts, siding) within 75' of the high water mark shall not exceed 3' above grade. The posts should be cut, and wire rotated. It was determined that a hedge is not a fence. Any hedge spilling over property line can be trimmed by the Pogue family.

PUBLIC COMMENTS: A previous path which has always been considered as an evacuation route is now blocked. Fox family and their counsel agreed to requirements in discussion above and will correct the fence.

COMMENTS FROM ZEO: Is the hedge row in a deeded ROW?

SEQR MOTION by Rob Aliasso second by Julie West declares the proposed action to be a **TYPE II – Action 37** 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, Jaclyn Wenschhof, Robert Aliasso, Joan Treadwell Woods, and Julie West.

INTERPRETATION AND FINDINGS: A hedge is NOT a fence. The fence was found to be constructed out of compliance with zoning regulations and must be corrected as outlined in the Discussion.

CLOSE PUBLIC HEARING MOTION by Joan Treadwell Woods second by Julie West to close the public hearing

AREA VARIANCE CHECKLIST -Not applicable

DETERMINATION OF ZBA BASED ON ABOVE FACTORS: The interpretation by the ZEO that a hedge is not a fence, and that a hedge is only regulated on the corner of two roads.

HEARING #2

CONFERENCE CALL –

Request of Lindsay Witmer

Located at 7036 Hovey Cove Lane

On Parcel #97.15-1-65

In LF

Bordering Property owned by Jeffrey, Deborah and Kevin Williams , and Krista and Robert Canham.

Request variance to build a 30x40' garage with 6' side setback on both sides.

DISCUSSION:

Lot width and ROW setback was questionable with map provided. The existing garage will be demolished. ZBA laid out different options – 10' one side, 25' combined. Owner should return with revised plans and better maps. The well is located in the driveway, suggested moving well along with constructing a new garage. Build the new garage off center, to minimize size of side variance. Suggested 24' wide garage and 50 from road ROW.

PUBLIC COMMENTS

COMMENTS FROM ZEO:

SEQR MOTION **Not applicable at this time** _____ by _____ second by _____ declares the proposed action to be a TYPE II – 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.

ALL ACTION SUSPENDED UNTIL THE SEPTEMBER MEETING. Motion by Julie West and seconded by Joan Treadwell Woods to suspend actions until September. Roll Call voting **5 YES**: Jerry Tackley, Jaclyn Wenschhof, Robert Aliasso, Joan Treadwell Woods, and Julie West.

CLOSE PUBLIC HEARING MOTION by Rob Aliasso second by Julie West to close the public hearing. Roll Call voting **5 YES**: Jerry Tackley, Jaclyn Wenschhof, Robert Aliasso, Joan Treadwell Woods, and Julie West.

AREA VARIANCE CHECKLIST – NOT APPLICABLE

FACTORS CONSIDERED

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

2. **Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:** Yes No
Reasons:

3. **Whether the requested variance is substantial:** Yes No
Reasons:

4. **Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:** Yes No
Reasons:

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

DETERMINATION OF ZBA BASED ON ABOVE FACTORS: NOT APPLICABLE

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

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

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

Roll Call voting **5 YES**: Jerry Tackley, Jaclyn Wenschhof, Robert Aliasso, Joan Treadwell Woods, and Julie West.

HEARING #3

Request of John MacVittie

Located at 11227 Flat Rock E, Adams, NY

On Parcel #98.11-1-31

In LF

Bordering Property owned by John R. Church III, Karen, Kevin Sischo, Deanna Barney-Sischo

Request variance for 3.5% increase in lot coverage and side setbacks to build a 22x32 garage.

DISCUSSION: The maps presented are old, will return to next meeting in September with updated survey. He needs a side setback.

PUBLIC COMMENTS: none

COMMENTS FROM ZEO: **Suspend hearing until September meeting with accurate survey maps.**

SEQR MOTION by _____ second by _____ declares the proposed action to be a TYPE II – 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 ____: Jerry Tackley, Jaclyn Wenschhof, Robert Aliasso, Dean Witmer, Joan Treadwell Woods

ALL ACTION SUSPENDED UNTIL SEPTEMBER MEETING.

Motion by Julie West and seconded by Joan Treadwell Woods to suspend actions until September meeting. Roll Call voting **5 YES**: Jerry Tackley, Jaclyn Wenschhof, Robert Aliasso, Joan Treadwell Woods, and Julie West.

CLOSE PUBLIC HEARING MOTION by _____ second by _____ to close the public hearing.

Roll Call voting **5 YES**: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West, Jaclyn Wenschhof to suspend actions at this time.

AREA VARIANCE CHECKLIST – NOT APPLICABLE

FACTORS CONSIDERED

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

Reasons:

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

Reasons:

3. Whether the requested variance is substantial: () Yes () No

Reasons:

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: () Yes () No

Reasons:

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

Reasons:

DETERMINATION OF ZBA BASED ON ABOVE FACTORS: NOT APPLICABLE

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

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

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

Roll Call voting ____: Jerry Tackley, Jaclyn Wenschhof, Robert Aliasso, Joan Treadwell Woods , Julie West

HEARING #4

Request of James and Mandy Bray

Located at 2807 Stony Pt Lane

On Parcel 105.13-1-56

In LF

Bordering Property owned by Pederson, Trustee, Susan L, Harry Nash, Jr.

Request for variance to allow for a 5' side setback for a 26 x 26' garage with storage above.

DISCUSSION: The parcel owners wish to live in their new house permanently and would like to build a garage. One option would be to move the garage 5' and connect to house. Wouldn't need a side variance, but require a RY variance, but it will be minimized, its estimated 11'.

PUBLIC COMMENTS: None

COMMENTS FROM ZEO: All good

SEQR MOTION by **Julie West** second by **Joan Treadwell Woods** 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, Jaclyn Wenschhof, Robert Aliasso, Dean Witmer, Joan Treadwell Woods

CLOSE PUBLIC HEARING MOTION by **Rob Aliasso** second by **Joan Treadwell Woods** _to close the public hearing.

Roll Call voting **5 YES** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West, Jaclyn Wenschhof

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: (5) Yes () No**
Reasons: Negotiated variance to minimize.
3. **Whether the requested variance is substantial: () Yes (5) No**
Reasons:
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

- (0) the Benefit to the Applicant **DOES NOT** Outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied.
- (5) 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, Jaclyn Wenschhof, Robert Aliasso, Dean Witmer, Joan Treadwell Woods

BUSINESS: Possible change of September meeting date to Tuesday, September 17, 2024. Clerk will confirm with board.

ADOPTION OF PREVIOUS MINUTES:

MOTION by **Rob Aliasso** , second by **Julie West** accepts the July 17, 2024 minutes.

Roll Call voting **5 - YES** : Robert Aliasso, Jerry Tackley, Joan Treadwell Woods, Julie West, Jackie Wenschhof

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

Roll Call voting **5 YES**: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West, Jaclyn Wenschhof

Respectfully Submitted

Mary Cornell