

TOWN OF HENDERSON ZONING BOARD OF APPEALS MEETING

12105 TOWN BARN ROAD, HENDERSON, NY

July 20, 2022 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 6:00 p.m.

ATTENDANCE and PLEDGE: J. Tackley, R. Aliasso, J. Treadwell Woods, J. West, F. Caswell

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 – (CONTINUATION)

Request of Shawn M. Herrmann

Located at 13422 County Route 72, Henderson, NY 13650

On Parcel #106.05-1-5.23

In R-15

Bordering Property Owned by Six Town Heights, and Paulette Fish, and John Bateman.

Request variance for reduced side setback.

DISCUSSION – J. Tackley’s biggest concern is whether or not the lot is a corner lot. R. Aliasso does not believe it is after visiting site and further review of definition. M/M Herrmann presented a letter to the board (attached) and pictures for review. They are questioning the ROW.

M/M Herrmann stated that their propane tank was buried on the south side of the residence, the septic and leach field are on the opposite side, there are drainage issues off route 3. Yvette Herrmann called to get a 911 address for CR72 because there was no other road recognized by the county. (see attached letter)

PUBLIC COMMENTS: M. Yonkovig commented on the 1st and 2nd subdivisions that have been approved by the board over the last year or so and covenants approved by the planning board. The ROW on the side was an afterthought. Much discussion from the board, M. Yonkovig and M. Owen regarding the definition of road and corner lots. M. Yonkovig concerned that the garage, if allowed to be built, would obstruct water view from future homes being built about Herrmann residence. R. Aliasso reminded him that a view is not guaranteed.

COMMENTS FROM ZEO: ZEO reminded board that owners were asking for a variance, not an interpretation. Determination of the front of property is the access. Still a road, although private no matter if its called a road, trail, etc.

SEQR MOTION by Rob Aliasso, second by Joan Treadwell Woods declares the proposed action to be a TYPE 2 – Action 16 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 **YES** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West, Fred Caswell.

CLOSE PUBLIC HEARING MOTION by Rob Aliasso, second by Joan Treadwell Woods to close the public hearing. Roll Call voting **YES** : Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West, 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? (1) Yes (4) No
Reasons:
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: () Yes (5) No
Reasons:
3. Whether the requested variance is substantial: (5) Yes () 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

() 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 23' variance on the NE side and motion request are granted.

Roll Call voting: 4 – YES, 1 - NO

MOTION TO ACCEPT MINUTES: June 15, 2022 meeting was held open for continuation in July.

BUSINESS: Next possible meeting on August 17, 2022 , ZBA requesting that Town Board and ZBA revisit supporting interpretations of the Town of Henderson, chapter 150, Zoning Law, Article II, Terminology, 150-6 Word usage; definitions for road, lot, corner and lot line, front. Town website needs to be updated with time of meeting changed to 6:00 p.m.

MOTION by Fred Caswell, second by Joan Treadwell Woods adjourns the meeting.

Roll Call voting: YES: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West, and Fred Caswell.

Respectfully Submitted

Mary M. Cornell
ZBA Clerk

Enc; Herrmann letter to board