

**TOWN OF HENDERSON ZONING BOARD OF APPEALS MEETING**

**12105 TOWN BARN ROAD, HENDERSON, NY**

**December 16, 2020 AT 5:00 PM**

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

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**CALL TO ORDER**

**ATTENDANCE and PLEDGE:** Fredrick Caswell - Absent

**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 Jeffrey Jones**

Located at N. Military Rd

On Parcel # 105.12-1-32.3

In Lake Front

Bordering Property Owned by David Paver and Bruce Thomas

For proposed 40' X 36' garage requiring a size variance and a reduced rear lot line variance.

**DISCUSSION:** Requesting a 10' rear lot line variance. Project will back up to a right of way that is not developed currently mostly woods. The size of the garage will require a 240 sq ft variance.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** The project is on a non-conforming lot and will not encroach any closer than existing building on adjoining properties therefore no front set back variance is required.

**SEQR MOTION** by Robert Aliasso 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 yes: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West

**CLOSE PUBLIC HEARING MOTION** by Joan Treadwell Woods second by Robert Aliasso to close the Public hearing  
Roll Call voting yes: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West

### **AREA VARIANCE CHECKLIST**

#### **FACTORS CONSIDERED**

1. **Whether undesirable change would be produced in the character of neighborhood or a detriment to nearby properties? ( ) Yes ( 4 ) No**  
**Reasons:**
2. **Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: ( 1 ) Yes ( 3 ) No**  
**Reasons:**
3. **Whether the requested variance is substantial: ( 4 ) Yes ( ) No**  
**Reasons:**
4. **Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: ( ) Yes ( 4 ) No**  
**Reasons:**
5. **Whether the alleged difficulty was self-created: ( 4 ) Yes ( ) No**

#### **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.**

**( 4 ) 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 yes: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West

## **HEARING #2**

### **Request of Daniel & Sarah Radmanovic**

Located at NYS Rte. 3

On Parcel # 98.14-1-63.11

In Lake Front

Bordering Property Owned by Fred & Nora Schempp III, William & Deborah Elliott, Edward Olley Jr., William & Jennifer Braswell, John & Ann Comerford and Alex D'Alessandro

For proposed 3,000 Sq Ft residence with septic and driveway requesting a variance for a reduced front set back

**DISCUSSION:** The Radmanovic's requested a 15' reduced front setback for a new 3,000 sq ft home. They will not be any closer to waterfront than existing dwellings. If new home was to be set back further it will encroach on the Schempp home that is closer to the lake by nearly 15 feet. A two-story home is planned as well as screening/fencing.

**PUBLIC COMMENTS:** A letter from Daniel and Sarah Radmanovic as to why they are requesting the variance was read into the minutes as well as letters from Bill and Jennifer Braswell asking the reduction to be denied as they wish to build someday as well and plan on meeting the required set back and do not want their view obscured. Fred Schempp asked the Board to deny the variance as well as he does not want his view obscured and would like to have the set back further away. John Comerford expressed concerns with a drainage ditch the runs across the property where the driveway is proposed and is requesting it stay undisturbed as they build. The owner is aware of the drainage issue and has plans to work it into the design of the project to protect any flooding issues. It was also brought up that the Schempp's septic tank is currently located on the property and Fred Schempp stated a deeded right of way is in place for service. Septic will be removed before building begins and Mr. Schempp will locate on his property.

**COMMENTS FROM ZEO:** Zoning Officer Eric Sheldon reminds the Board that Zoning does not protect a view. He believes the request is reasonable and it fits with the neighborhood and surrounding area.

**SEQR MOTION** by Robert Aliasso 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 yes: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West

**CLOSE PUBLIC HEARING MOTION** by Joan Treadwell Woods second by Julie West to close the Public hearing  
Roll Call voting yes: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West

**AREA VARIANCE CHECKLIST**

**FACTORS CONSIDERED**

1. Whether undesirable change would be produced in the character of neighborhood or a detriment to nearby properties? ( ) Yes ( 4 ) No

Reasons:

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: ( 1 ) Yes ( 3 ) No

Reasons: If the house is moved back it will create a greater impact  
Alternative for yes vote is to redesign the layout

3. Whether the requested variance is substantial: ( ) Yes ( 4 ) No

Reasons:

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

Reasons: the water drainage issue and septic system have been discussed

5. Whether the alleged difficulty was self-created: ( 1 ) Yes ( 3 ) No

**DETERMINATION OF ZBA BASED ON ABOVE FACTORS:**

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

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

( 3 ) 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 Yes: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods

No: Julie West

**ADOPTION OF PREVIOUS MINUTES:**

**MOTION** by Robert Aliasso, second by Joan Treadwell Woods accepts the October 21, 2020 corrected meeting minutes.

Roll Call voting yes: Robert Aliasso, Jerry Tackley, Joan Treadwell Woods

**BUSINESS:** Next possible Meeting January 20th

**MOTION** by Robert Aliasso second by Joan Treadwell Woods adjourns the meeting.  
Roll Call voting yes: Jerry Tackley, Robert Aliasso, Joan Treadwell Woods, Julie West

**Respectfully Submitted**  
**Wendy Flagg**