

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

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

**July 18, 2018 AT 7:00 PM**

**Committee Members: Jerry Tackley, Chairman and Robert Aliasso, Fredrick Caswell Jr., Matthew Owen, Dean Witmer**

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**CALL TO ORDER**

**ATTENDANCE and PLEDGE:** Dean Witmer - 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 James & Ellen MacFarland**

Located at 10415 Bayshore Dr

On Parcel # 98.14-1-46

In Lakefront

Bordering Property Owned by Frederick & Bertha Campbell, Richards  
GE&MW Rev. Trust and Marquette Cottage Association

For removal of existing cottage and replacing with a 30'x50'cottage with an  
attached 28'x24'garage plus a new shore well and repair the boat slip requiring  
a reduced side setback and a variance for building coverage

**DISCUSSION:** The existing cottage front yard setback is at 44' to high water mark, new front yard setback will be located at 33' to high water mark, but is no closer than neighbors, as allowed by zoning. Proposed deck on plans brought to meeting by architect not on original drawings that have been reviewed by Board and submitted with application, so it was not discussed further and will require separate application. New cottage must be 6' off west side lot line and 14.5' off east side lot line, requiring a 4' variance for single side setback on west side and 4.5' variance for total combined side lot line. Lot coverage meets requirements. Building coverage requires a 6.3% variance

**PUBLIC COMMENTS:** Letter from Robert Shearer read into the minutes with several concerns he submitted. Letter in file

**COMMENTS FROM ZEO:** A front set back would be required for the deck that is on new drawings. The hearing was advertised for a side set back and building coverage setback nothing on deck requiring a front set back. The deck should be filed under a separate permit request.

**SEQR MOTION** by Robert Aliasso second by Matthew Owen declares the proposed action to be a TYPE II – 12 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, Fredrick Caswell, Robert Aliasso, Matthew Owen

**CLOSE PUBLIC HEARING MOTION** by Fredrick Caswell, second by Matthew Owen Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso, Matthew Owen

## **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:** Deliberated at length the need for greenspace and that nothing was to be closer to the lake.
- 2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:** \_\_\_\_\_ Yes 4 No  
**Reasons** Negotiated a greater setback setback for west side by 2.5times
- 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  
**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.**

**4 the Benefit to the Applicant DOES Outweigh the Detriment to the Neighborhood or Community and therefore the variance and motion request is granted.**

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso, Matthew Owen

**MOTION:** by Robert Aliasso, second by Matthew Owen, a 519 sq. ft. building coverage or 6.3% variance over allowed building coverage is granted as well as a 4' variance on the west side lot line and a 4.5' combined side lot line variance also granted. No deck will be allowed at this time as it was shown on a supplemental drawing/information provided at the hearing but not advertised.

**HEARING #2**

**Request of Alan & Dawn Smith**

Located at 12817 Whitney Rd

On Parcel # 105.07-1-44

In Agriculture and Rural Residence (AR-40)

Bordering Property Owned by Rudy and Janet Krumpf

For building a 33'x14' deck on side of existing house requiring a reduced front setback.

**DISCUSSION:** The building is existing prior to zoning laws and the deck is just to square up the building and will be no closer to any existing setbacks.. A 35' front setback variance will be required.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** None

**SEQR MOTION** by Robert Aliasso second by Fredrick Caswell declares the proposed action to be a TYPE II –12 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, Fredrick Caswell, Robert Aliasso, Matthew Owen

**CLOSE PUBLIC HEARING MOTION** by Robert Aliasso, second by Matthew Owen

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso, Matthew Owen

**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: \_\_\_\_\_ Yes 4 No

Reasons

3. Whether the requested variance is substantial: 4 Yes \_\_\_\_\_ No

Reasons: The house is existing and built prior to zoning laws

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

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.

4 the Benefit to the Applicant **DOES** Outweigh the Detriment to the Neighborhood or Community and therefore the variance and motion request is granted.

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso, Matthew Owen

**HEARING #3**

**Request of Jeffrey & Cynthia Germain represented by Patsy Storino**

Located at Launch Lane

On Parcel # 106.00-2-32

In Agriculture and Rural Residence (AR-40)/ Lakefront

Bordering Property Owned by Crystal-Dale Farms, LLC and Butterville Properties, LLC

For a reduced side set back variance for an existing shed on a proposed subdivision.

**DISCUSSION:** Planning Board required the applicant to obtain a side lot line variance for a building on a proposed subdivision to be heard in front of the Planning Board for August hearings. On Lot #1 of proposed subdivision an existing storage shed would require a 9' side lot line variance.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** None

**SEQR MOTION** by Robert Aliasso second by Matthew Owen declares the proposed action to be a TYPE II –12 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, Fredrick Caswell, Robert Aliasso, Matthew Owen

**CLOSE PUBLIC HEARING MOTION** by Robert Aliasso, second by Matthew Owen  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso, Matthew Owen

### **AREA VARIANCE CHECKLIST**

#### **FACTORS CONSIDERED**

1. **Whether undesirable change would be produced in the character of neighborhood or a detriment to nearby properties?**       4    Yes               No  
Reasons:
  
2. **Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:**            Yes       4    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  
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.**

**4 the Benefit to the Applicant DOES Outweigh the Detriment to the Neighborhood or Community and therefore the variance and motion request is granted.**

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Dean Witmer, Robert Aliasso, Matthew Owen

**MOTION:** Upon approval of Planning Board Lot #1 of Proposed Germain Subdivision a 9' side lot variance will be granted for an existing storage shed.

**ADOPTION OF PREVIOUS MINUTES:**

**MOTION** by Fredrick Caswell, second by Robert Aliasso, accepts the amended June 20, 2018 meeting minutes.

Roll Call voting yes: Fredrick Caswell, Jerry Tackley, Robert Aliasso, Matthew Owen

**BUSINESS:** Next possible Hearing Aug 15th - Rob Aliasso excused

**MOTION** by Robert Aliasso, second by Matthew Owen adjourns the meeting.

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso, Matthew Owen

**Respectfully Submitted**

**Wendy Flagg, ZBA Clerk**