

**TOWN OF HENDERSON ZONING BOARD OF APPEALS MEETING  
12105 TOWN BARN ROAD, HENDERSON, NY  
May 17, 2017 AT 7:00 PM**

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

---

**CALL TO ORDER at 7:00 PM**

**ATTENDANCE and PLEDGE:** All present

**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 Richard & Laura Canori**

Located at 12289 Elms East

On Parcel # 98.12-1-8

In Lakefront

Bordering Property Owned Barbara Brodie, Howard & Denise Pope and Moreau Tande

For removal of existing cottage and rebuild new over existing foot print while squaring off bump outs on a non-conforming lot.

Reducing side setback to 5' and lot coverage increased up to 26.754%

**DISCUSSION:** Two variances are needed, an 8' variance on the East side lot line and building coverage will be 6.75% more than allowed by our zoning law. The new building will be 1,488.4 square feet. The porch will remain, but there is no foundation under it. The question of front lot set back was raised by being only 22.5' from the water but this is not an issue according to the Zoning Officer, since adjoining lots have closer structures, and this structure is not moving closer to the water.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** Front lot variance is not needed for this parcel.

**SEQR MOTION** by Robert Aliasso, second by Dean Witmer, declares the proposed action to be a TYPE II –13 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, Steve Cote, Robert Aliasso, Dean Witmer

**CLOSE PUBLIC HEARING MOTION** by Steve Cote, second by Fredrick Caswell

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

### **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 due to well and septic system location on property

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.

**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, Dean Witmer  
No: Steve Cote – Client needs to go to Planning Board

**MOTION** by Robert Aliasso second by Dean Witmer for an 8’ variance on the East side lot line as well as a building coverage variance with an overage of 6.75% per the required zoning law.  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

**HEARING #2**

**Request of Robert & JoAnn Shupe**

Located at 8305 O’Donnell’s Rd

On Parcel # 106.09-1-17

In Lakefront

Bordering Property Owned Patricia Wittman, Bruce & Donna Thomas and Emma O’Donnell

For a 32’X16’ addition to existing cottage seeking reduced side setback and reduced total combined side set back.

**DISCUSSION:** An 8’ variance will be needed to make the required 25’ combined side set back. Existing deck and stairs will remain with new addition not to exceed beyond the deck stairs.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** None

**SEQR MOTION** by Fredrick Caswell, second by Robert Aliasso, 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, Steve Cote, Robert Aliasso, Dean Witmer

**CLOSE PUBLIC HEARING MOTION** by Steve Cote, second by Robert Aliasso  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

**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

3. Whether the requested variance is substantial:   4   Yes   1   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.

  5   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, Steve Cote, Robert Aliasso, Dean Witmer

**MOTION** by Steve Cote second by Robert Aliasso the new addition will not exceed the existing deck stairs line and an 8' variance is granted for the East side lot line to meet the required combined side setback of 25'.

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

**HEARING #3**

**Request of Brian & Rachel Peer Represented by Jeff Fargo**

Located at 14368 Snowshoe Rd

On Parcel # 97.15-1-56

In Lakefront

Bordering Property Owned John & Bernadette Peer, William & Mary Elizabeth Beshures and Richard Scroxton

For a 7' X 6' addition attached to the side of cottage

seeking a reduced total combined side set back.

**DISCUSSION:** Addition can't go on the back side of the existing addition due to septic and retaining wall. Must go on waterfront side of property.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** Since the structure is attached to the cottage the addition is to exiting primary building and not a shed ( accessory/secondary structure).

**SEQR MOTION** by Steve Cote, second by Dean Witmer, 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, Steve Cote, Robert Aliasso, Dean Witmer

**CLOSE PUBLIC HEARING MOTION** by Fredrick Caswell, second by Robert Aliasso  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

**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
  
- 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  
\_\_\_\_\_ 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 is granted.

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

**MOTION** by Robert Aliasso second by Steve Cote the new addition is not to exceed the front building line. A 2' variance on the East side lot line is granted in order to meet the required 25' combined side lot line requirement.  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

**ADOPTION OF PREVIOUS MINUTES:**

**MOTION** by Robert Aliasso, second by Steve Cote, accepts the as written March 15, 2017 meeting minutes.

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso, Dean Witmer, Steve Cote

**BUSINESS:** Next possible Hearing June 21<sup>st</sup>  
Robert Aliasso unable to make June 21<sup>st</sup> meeting.

General business notes concerning hearing for Christine Baily Clar on parcel number 105.19-3-14. Joseph Baily, representative, has new survey from August 2016- no actual survey was done still waiting, a brief description of what he plans to build and sounds as if some variances will be needed. This hearing was adjourned in October 2016 due to the client being out of Town for winter.

**ADJOURNMENT**

**MOTION** by Steve Cote, second by Fredrick Caswell, adjourns the meeting.

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Steve Cote, Robert Aliasso, Dean Witmer

**Respectfully Submitted**

**Wendy Flagg, ZBA Clerk**