

TOWN OF HENDERSON ZONING BOARD OF APPEALS MEETING
12105 TOWN BARN ROAD, HENDERSON, NY
Oct 18, 2017 AT 7:00 PM

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

CALL TO ORDER

ATTENDANCE and PLEDGE: Steve Cote 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 Julie Dixon

Located at 10476 Lasher Rd

On Parcel # 105.19-2-45

In Lakefront

Bordering Property Owned by Charles & Melissa Elve, Wolfgang & Anne Marie Reuss, Edward & Elizabeth Lehmann and Foundation for Paternal Rights, Inc.

For a 30'X40' Garage with an attached overhang of 15'X40' with a reduced rear setback and garage will be "over" the permitted square footage on a non-conforming lot.

DISCUSSION: Previous approved garage will not be built. Over hang will not have walls and will have a gravel floor. Lot and building coverage meets requirements even with garage being over square footage allowance. Variance needed for square footage, rear and side lot line. Eastside 5' combined side variance, 7' rear variance, north corner and square footage overage variance is allowed with location of garage.

PUBLIC COMMENTS: None

COMMENTS FROM ZEO: None

SEOR 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, Dean Witmer, Robert Aliasso

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

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:** _____ Yes 4 No
Reasons: 38' front yard variance
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, Steve Cote

HEARING #2

Request of Killius Marine Properties, LLC, represented by John Killius

Concerning Location at 13471 Cty Rte 123

Concerning Parcel # 106.05-1-49

In Lakefront

Property Owned by TLC Henderson Holdings, LLC

Boarding Property Owned by Killius Marine Properties, LLC and Bill

Saiff's West View Lodge

For an interpretation on Town of Henderson Zoning Law Article IV

Section 150.10 Paragraph D

DISCUSSION: All items to be considered lot coverage were discussed and reviewed. Side lot at one time was paved but currently gravel. Questions rose as to when the pavement was removed in relation to when permit was granted. Picture presented by John Killius shows gravel prior to permit being issued for pad. Lot coverage could be improved by removal of 226 sq. ft. of lot coverage.

PUBLIC COMMENTS: Robert Ashodian – Recommends the Board review the permit not only for lot coverage but placement of pad as well. Original site plan had parking only no structures or dumpsters. Here as a private citizen not a representative of the Planning Board.

William Saiff III – Clarifications on permits needed. The original site plan has been violated by change of structures and dumpsters. All people need to be treated fair and equal when it comes to Zoning Laws in the Town of Henderson.

COMMENTS FROM ZEO: John Killius has been in front of Planning Board and sent Town Board letters that Eric Sheldon has answered to both Boards.

- When the permit was issued Enforcement Office was under assumption that the lot was conforming.
- Septic system is considered a structure there is nothing in Zoning Laws that says system is to be under ground.
- Department of Health gives recommendation for septic system
- System has been installed for over 3 months and time has expired to appeal the installation.

MOTION by Robert Aliasso, second by Dean Witmer to adjourn and continue hearing as more information is obtained and reviewed by all parties involved.

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

ADOPTION OF PREVIOUS MINUTES:

MOTION by Fredrick Caswell, second by Dean Witmer, accepts the as written Sept. 20, 2017 meeting minutes.

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

MOTION by Robert Aliasso, second by Fredrick Caswell, accepts the as written Aug. 16, 2017 meeting minutes.

Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Robert Aliasso
Abstain – Dean Witmer

BUSINESS: Next possible Hearing Nov. 15th

MOTION by Robert Aliasso, second by Dean Witmer, adjourns the meeting.

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

Respectfully Submitted

Wendy Flagg, ZBA Clerk