

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

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

**October 17, 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:** Robert Aliasso – Excused 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 Howard & Patricia Robbins**

Located at 13869 Bayview Dr

On Parcel # 97.19-1-7.21

In Lake front

Bordering Property Owned by Susan Butler and Barbara Gilsdorf

For an 18'X 30' addition to an existing garage requiring a variance for increased square footage of the allowable 1200 square foot garage.

**DISCUSSION:** A 540 square foot addition is being requested to be added onto an existing garage for storage bringing the total square foot of the garage to 2140 sq. ft. which is over the allowable size of a garage. All required setbacks will be met. Garage will just be used for storage.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** Variance required due to garage larger than allowable size will have same usage.

**SEQR MOTION** by Matthew Owen 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, Dean Witmer, Matthew Owen

**CLOSE PUBLIC HEARING MOTION** by Dean Witmer, second by Fredrick Caswell  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Dean Witmer, 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:** 2 Yes 2 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, Matthew Owen

**HEARING #2**

**Request of Robin and Andrew Morris represented by Ernest Villarreal**

Located at 10315 Cty RT 71

On Parcel # 98.00-1-62.1

In Agriculture & Rural Residence

Bordering Property Owned by Edward Morris, Frank & Anne Cean, Jennifer Beutel, Kevin Duffany, Michael & Kristina Burger, Carol Priest and Gerald Young

For removal and replacement of an 8' X 14' porch requiring a reduced front set back

**DISCUSSION:** Existing porch was removed and will be rebuilt in same footprint. Handicap ramp will not be replaced and porch will be enclosed, flush with existing home. A 30' variance will be required no closer than the existing porch was.

**PUBLIC COMMENTS:** None

**COMMENTS FROM ZEO:** None

**SEQR MOTION** by Matthew Owen 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, Matthew Owen

**CLOSE PUBLIC HEARING MOTION** by Dean Witmer, second by Fredrick Caswell  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Dean Witmer, 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: 30' variance for existing house

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, Matthew Owen

**Motion** by Dean Witmer seconded by Matthew Owen, that a 30' variance to be approved on existing house for a porch that was removed and to be replaced back in original footprint.

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

**ADOPTION OF PREVIOUS MINUTES:**

**MOTION** by Matthew Owen, second by Dean Witmer, accepts the amended September 19, 2018 meeting minutes.

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

**BUSINESS:** Dianne Gerrie hearing questions from Planning Board concerning granted variances: Request by three Planning Board members to have several questions answered by Zoning Board of Appeals as to the three variances that were approved by the ZBA Board. The variances that were approved were explained by the ZBA Chairman Jerry Tackley.

Robert Ashodian from Planning Board attended and spoke as to why questions raised from Planning Board. Mary Fults, neighbor, brought her attorney to Planning Board meeting and attorney explained his reasons as to why hearing should be readdressed. Robert Ashodian felt the neighbor should be able to have her chance to be heard and was surprised that neither Mary Fults nor her attorney attended tonight's meeting.

Zoning Board of Appeals Board believes that the case does not need to be reheard. There is no new information and the complainants are not present to be heard or express their concerns.

Next possible Hearing November 21<sup>st</sup> (day before Thanksgiving) everyone good  
October 29<sup>th</sup> training class at JCC

**MOTION** by Matthew Owen, second by Fredrick Caswell adjourns the meeting.  
Roll Call voting yes: Jerry Tackley, Fredrick Caswell, Dean Witmer, Matthew Owen

**Respectfully Submitted**

**Wendy Flagg, ZBA Clerk**