

**TOWN OF HARRIETSTOWN, INC.**

# **Zoning Board of Appeals**

**AGENDA FOR: February 25<sup>th</sup> 2020**

**APPROVAL OF MINUTES:**

**PUBLIC HEARING & REGULAR MEETING**

1. Application submitted by the Hardy Family Partnership, for a Special Permit and Area Variance for the construction of a boathouse at 282 County Route 45 Tupper Lake, N.Y 12986. Designated in our tax records by tax # 483.-3-9, bordering Rich Loeber and Joanne Schmidt, Et Al.

**OLD/NEW BUSINESS: Go Over Deadline Schedule**

**DATE OF NEXT REGULAR MEETING:**



DRAFT

Town of Harrietstown Zoning Board Appeal  
February 25<sup>th</sup>, 2020  
5:30pm

**Board Members Present:** Jim Tyler- Chairman  
Joseph Spadaro -Absent  
Allan Wright  
Trevor Jackson  
Richard Retrosi

**Staff Present:** New Code Enforcement Officer- Todd David  
Audio Call Code Enforcement Officer- Ed Randig  
Recording Secretary- Sarah Hadynski

**Public Present:** Steve O'Brien- Representing the Hardy Family and Partnership.  
Nancy Hardy  
Joanne Schmidt  
John McEneary  
Rich Loeber  
Diane Loeber  
Guy Middleton- Representing Upper Saranac Foundation  
Matt Norfolk-Assisting Hardy Family Partnership

**Application submitted by Hardy Family and Partnership  
for a Special Permit and Area Variance for a boathouse on 282 County Rt 45 in Tupper  
Lake. N.Y**

Meeting was called to order at 5:30 pm by Jim Tyler Chairman of the board. This is a continuation of a Public Hearing regarding the application submitted by the Hardy Family of a special permit and area variance. Jim then introduces the members, the staff and thanks the board members "I would like to thank the board members; we have been going on with this for a while."

Matt Norfolk introduces himself and explains that there will be a short presentation. He is representing the Hardy Family partnership. Says that after that one meeting he would "like to lay it all out there. We have designs, we have photographs. I guess the only thing I would like to remind the board respectfully is, so we are here for a special permit and variance the application of the variance we have the setback issue for the side and this shoreline concentration that it has to be 50% percent or less. Our design or proposal. we were asked to do a double bay design too as an alternative. The one we prefer we do away with the variance request for the shoreline concentration because it's under 50%. So, we are kind of excited about that. I think that would make everyone's lives easier"

Nancy Hardy starts off the presentation of the explaining the history of the boathouse. "I'm Nancy Hardy, I'm the 3<sup>rd</sup> generation at the Corey Island. My grandfather bought the property in 1924. In 1927 there was a garage and a covered boathouse built." She mentioned that her grandfather was a family physician and had saved the previous owners daughter from food poisoning. The owner asked what I could do for you and her grandfather said let me buy the property and that is how the Hardy's acquired access to the Corey Island. "At that point we were using Mrs. Kerry's Property to go back and forth. So that is a little history on how we acquired the land and how access to the island is a lifeline to us. We could not exist without access, its critically important" She then directs herself to the photos that was provide for their presentation. Photo One: In 1996 you can see you had to

do some repairs to the under pinning and the structure. On the second photo we have the Loeber's who had purchased the property and they had to rebuild their boathouse and you can see the boathouse was torn down and they got their permit in 2002 which was building permit 02-007 which would be a life like structure 24 by 26 in size with (2) 4ft walkways with brown and green trim." She said that at that point her mother sent a letter to the town on her concerns of the size and the location, the complaint was not addressed. Photo 3 between 2002-2004 shows the completion of the Loeber's boathouse. " You can see the closeness of the proximity of the two boathouses. We started putting up barriers to protect any open waters and ay ice eaves that would develop." Photo 4. "The Covered boathouse, open structure 2014-2019. At this point we put containments up to try to minimize the effects of bubbling. You can see on one side we were already losing our underpinnings. Next picture the structure getting severely damaged. We were really concerned about the cover falling creating damage and safety issues. We decided as a family we would remove the roof and bring down the actually pillars. With the idea of ultimately rebuild the boathouse." She explained that both pictures show the lack of safety there was of their boathouse 2014-2018. She said that because of the ice and waters they were losing their underpinnings and losing their docks. "One could not get a boat on the Loeber's side." Photo 5 A "Which was requested by the ZBA. If you look over the east (Left), which is the redline, that is the McNeary boundary."

Norfolk "If you see the rock you can see the shallowness of the water."

Nancy "On the other side, the orange cones, shows the boundary passes through Mr. and Mrs. Loeber's boathouse."

Matt clarified with Steve that the line going out to the rock is just a measurement to the rock to measure how far it was if they were to go out to the lake with a double bay boathouse. Steve explains that the Mcneary's line is a parallelogram and when it gets to the shore it goes at an angle

Nancy "5 B and 5 C both show the property line now, see where the cones are and 5 D basically a photo from the Town of Harrietstown to show the western boundary lines shown in 5 A."

Rick asks if we could go back to 5 C for a moment "the blue line, beyond the shoreline that the Hardy property continues out into the water? Doesn't the boundary line end at the shoreline

Norfolk says that he would answer that question. "All these properties and I have the deed; you extend the property lines on either side up to the water. That's what we did continuing that angle. This is state land, same with everyone. The Loeber's are not over their property."

O'Brien says they were asked to extend the property line as boundary lines as they went out into the lake. "That is what was asked to do and that is what I did." He went on saying that if you extended the boundary line as in 5 D and you look at the line the map that is from Franklin County. If you extended the boundary lines out into the lake you will get 5 C.

Nancy asks if she can continue "Moving on to 6 A & 6 B which are the survey plans that the ZBA required us to get. We went to Geomatics."

Norfolk says that Steve will speak on this. "These are survey maps from Geomatics. There is one green and there is one that is blue. The Hardy's want to do the green proposal. The width will be 24. The width of the lot is 49ft. This proposal you will get rid of one variance, which I think everyone wants. But it goes out further than the other proposal. but this is the one that they want." Norfolk asked Nancy and Steve would like to explain how they do this and why they did this.

Alan speaks up and says that the question that he has is the distance between the Loeber's boathouse and the proposal, I would like a number.

O'Brien says that it would be between 12-13 feet. "It's incorrect on the survey. There is a number ten, ten feet offshore that ten feet offshore would be closer to Loeber's side. That would be the furthest lowest point extending the property. From day one I've tried to keep things equal from either side. We are also trying to stay within the boundary lines that's one of the criteria I tried to stay within the second I was trying to stay parallel with the Loeber's boathouse. That is the amended boathouse is. We are trying to center it at shore

Nancy asks Steve how much room is on McNairy side

O'Brien says that it will be equal on both sides from the point of land. He says that the next page he was asked to get a rendering of a 2-bay wide structure. The two bay is shorter in length but wider. Which is now taking up 34 feet in width of the shoreline and the shoreline is only 48-49 feet. The two bays will take up more than 50% of the shoreline

Alan asks what the space between that boathouse and the Loeber's boathouse

O'Brien says that this will go down to 49 feet minus 34 feet split in two "It becomes useless to be that close because no we can't fit a boat or use it properly. If you, we took that whole structure and moved it over to the McNairy side it would get us going in the direction of that rock it will take away our launch site. Basically giving 7 1/2 feet on both sides. As the Loeber's said I think we are down to 2 feet between the two boathouses

Norfolk "I will hand out the blue proposal the same thing happened with the 10 feet because the issue of water."

O'Brien "No matter what I'm trying to split them equally on both properties." He explains that if it is equal and goes out on an angle to be parallel with the Loeber's boathouse it would be closer to rock and it would make it narrow and could not be used

Nancy says that having read the minutes from the board meetings there was a concern about the DEC permit which was addressed in the meeting and they approached DEC and asked for a modification. "You will see that in the email, letter that was sent and in reply. That was the drawing of the old covered boathouse with the proposed new boathouse and they approved this modification. I just wanted to quail that we weren't doing anything legally with the DEC."

Norfolk says moving forward this will put in perspective of what they have and going through the criteria, is there an alternative. Basically, the alternative wouldn't work because of the closeness. "I won't speak for Mr. Loeber, but I have in the packet some letters to our client and Mr. Randig. They agree to that.

Nancy continues photo 8 "Along this shoreline for some reason on upper Saranac Lake the water is very shallow, especially if they open up the dam. This photo shows the Loeber's boathouse, our old structure that was up and the McNairy on the right, I want you to take a look at how shallow the water is and how important it is for us to go out further. We have a pontoon boat an inboard that needs to be docked in a certain depth of water to bring these boats back and forth.

Alan is that where the walkway is going to be in the same spot as before

O'Brien the walkway will go out straight parallel to the Loeber's boathouse

Alan "But it will still touch shore in the same spot?"

O'Brien "Yes."

Guy Middleton speaks up and explains he doesn't deny that it is shallow there, but that Upper Saranac Foundation does not have the ability to regulate the dam "We do not rise or lower it." That particular area the shore is shallow. The shore water on Upper Saranac doesn't varies more than 8 inches from high and low."

Nancy "Would you say that we are at the low end?"

Guy "It's a shallow area. The dam doesn't regulate the water level"

Nancy "Thank you for clarifying that, something that I was told as a kid and never got it corrected. Moving on photo 9 showing the shore and last number 10 is basically where you see boathouse structures Mr. Days is on the right where he is 70 to 80 feet out into the lake with a fairly large structure then you go over to the Moats and they have a large boathouse also and further out into the lake"

Jim asks what the line was on the map and was told that it was a boom basically a bubbler. Nancy says that they put that out there, so they have access to the island in the winter to take care of maintenance work and to maintain the island during the winter. She also explains that they also have to be able to get propane tanks out there. "We use the ice to get supplies across in the wintertime. It's much easier to use our metal guide boat and put roofing materials in the boat and zip across on our snowmobile."

O'Brien "11 is exactly what we have been telling you we would like to propose. We have 10 feet offshore, eastern shore, 24 feet wide by 54 foot its 50 foot inside and 4 foot of walkway to the shore to contain 2 boats back to back and approximately 13 feet from both properties at the beginning of the shoreline. The next photo is what it would physically look like. It also shows some cribbing and some posts. I have gone back a fourth with the engineer, the army corps of engineers and we are trying to price this out. The cribs I will be able to do myself in low water out at the end we will have to have another company come out and put the pylon in. so that is what it would look like. It would be 15 feet high an open base structure the way it has been since 1927. Photo 13 is showing the existing boathouse before we had to remove the roof. The second one of 13 is showing how close it was to the Loeber's boathouse. I could take one step away at this point. One of the last 13 is showing a couple of boathouses away it the Burden and Day property which is showing another boathouse in the bay next door. 14 is showing the construction of the new Loeber boathouse compared to the existing Hardy structure. It just showing that close proximity of the boathouse and moving forward it can't be that close.

Alan "And crowding is what I have an issue with. So basically, the original boathouse has turned itself sideways from what the original was over the years"

O'Brien "Yes it has gotten affected. If you look back, I think they were kind of parallel to when it was originally built its just gotten closer and I think that where the Loeber's boathouse was put, it was something we couldn't stop

Alan "Are you saying the cribbing's itself have moved as well?"

O'Brien "Oh yeah everything. There are pieces of cribbing out in the water in different areas and it so shallow and there isn't much mass and a 30 degree night can put some ice out there"

Norfolk "I have these letters here and it sounds like that the neighbors, like the Loeber's are agreeing that something needs to change. They are getting to close anyways and it doesn't help either parties, if they ever want to sell. Avoiding property damage. 17 the deeds to show property description line. It was a discussion that last time we were here it basically goes to a repairing right. No one owns the water. That is why we had to go to the DEC. the last one is not number we talked to Ed and we asked Ed's opinion and I think that he is spot on but of course that is something that you have to consider."

Jim "Also Ed is no longer employed by the Town of Harrietstown and it is just a letter of opinion."

Norfolk "That is correct and what he consulted with in the town."

Jim "I get that just for the record he is an individual."

Rick confused asks the board which one they are proposing, and Norfolk says that he can answer that one and that is the green one, that is the one that they prefer there is an alternative there but the green one is preferred. O'Brien says that the green one is the one that has been approved by the APA "Matter fact the APA approved a larger structure just as the DEC did in the begin. We brought that back and made it smaller and got the modification and that was part of one of our meetings. We are proposing a single bay 2 deep boat structure not the wide one."

Jim asks the Mcneary's if their letter that was sent today if that clarified which boat was being proposed and John says yes that it clarified it. Joanne said that it also said in the letter which one they would agree too. Rick asks if that is what Ed was referring too. Norfolk replies yes, he said that Ed is familiar with the application form before was the green proposed. Ed hasn't even seen the approval of the other proposed boathouse.

O'Brien says "Let me clarify that we never have given you a proposal of a 2-bay wide boathouse. You as a board asked for that."

Alan "actually, I think that Mr. McNeary threw in a few proposals too. I don't think that we actually asked for a 2-bay wide boathouse just ones that with our zoning regulations.

O'Brien "We never proposed that to you we produced it on paper."

Alan "The one we are referring to is Doc 3A."

Steve "Yes, Sir."

Alan "I do have to say there was a lot in Ed's letter that I would have to disagree."

Moving forward Nancy says the Mcneary's and Loeber's know this. That this boathouse is there lifeline. "We are not asking for a huge elaborate boathouse we are looking for a functional, operational boathouse. That's safe, that is covered so that when we have friends that I need to come out who have Parkinson's disease, they are able to get out there with their wheelchairs, walkers or mobile carts. We have to be able to get roofing a crossed, we have to be able to get our beloved pets across. We have a pontoon that comes in we have a caretaker that has one of our boathouses at the landing 24/7. So, we need 2 boats one for transportation, one for the caretaker. We have a whaler if we need a third boat. We need to be able to exist and live that is all we are asking for we don't want to oppose on anybody. We want to make sure we are not encroaching on anyone. We want to be

able to have what we had before but further out in the water for better access. It was built in 1927 we are asking for a boathouse that accommodates 2020.

Jim asks if there are any further comments

John says that they will respond to what they have heard today

Jim asks if guy had any response to this and Guy says that the only question, will this include drip edge or over hangs

Steve responses "Yes, I was told that you are measuring in this town that you measure to the drip edge

The board response with "That's correct."

Steve "My drip edge and my dock system on width are going to be 24 feet wide. I have to stay within the APA. That's what we have had on the proposal"

Jim "So yes Guy we measure from the drip edge. Does this answer your question?"

Guy "Yes, I was just curious if these figures were."

Jim asks is the Loeber's have any comments at this time just Loeber said that when he looked at the Foil over with Todd, he showed him the 2 proposals. "I must admit I like the one with the double wide because it doesn't stick out in the lake as much. I must say that either one that you guy approve is much better than what's there. I had a concern of exterior lighting. I just want to make sure that any exterior light does not shine on our house. We have had incidents before that the exterior lighting was put up and shined right into our bedroom window."

Jim addresses John to comment on what was said today "We received the 2 proposals and Mr. & Mrs. Loeber and our family are okay with the blue one, the square boathouse. It solves a lot of the issues that were a problem with the repairing right line. Whether you agree how it is formed we mentioned it at one of the meetings that there is 6 ways to calculate that. There is an organization that you can request to come in and do that and they would establish what the repairing right lines are. With his second proposal it looks to me to attempt to hit that line and not go over it. That's not the only issue of how it extends out into the lake they actually get in the way of our view shed we would have to look into the boathouse. The green one will across that line if we value that line. We used to see hardy's island when their boathouse before was up, especially when the girls were up sunbathing, they were 17-18 and so was I."

Alan asked Steve that if he went with the wide one would that be a closed boathouse "So no matter what you build your not putting walls up?" Steve says they will stay open "In the wintertime I will most likely have built a canvas roll down." Steve expresses that something to protect in the winter. "I don't want to interrupt John, but I did say that I would work with everyone here. I did also say that I would build that structure with a peaked roof to where it was before than I would drop it down to a lower platform the rest of the way out. I would stop the peak to where the old structures peak was before."

Alan "So it wouldn't obstruct what John is talking about, should you ever bring in 17-18-year-old." Everyone chuckles. Nancy says this is the fourth generation while John expresses that they were all teenagers than.

John says that even if there are modifications to the roof, they sit on a dock not above the dock so they would still have you look through the boathouse. "So as far as we are concerned and the Loeber's proposal 2 would satisfy us. The permit that they have for the green boathouse is now void only because they modified it, I would assume they would reapply."

Alan asks if they had an application in the town of Harrietstown for an of these boathouses

Todd replies "No"

Alan "So if we approve one, they would need to reapply."

Norfolk "You and do variance, you can do conditions."

Jim "We have done that before."

Jim "Any other comments?"

Rick "I have an opinion."

Alan "I want to hear it."

Steve and Norfolk come back after a private conversation and Steve does a quick review of the blue boathouse "The blue boathouse which is a 34 feet wide it is a double bay and it extends 10 feet plus 4 feet plus 30 feet out into the lake, its 14 foot off shore and it's 30 feet in length, That adds up to 44 feet at that same point the Loeber's boathouse is approximately 43 feet offshore so it would make them the same distance off of shore. The problem for the blue is to keep this equal distance for the land owners on either side it drops this structure 7 ½ feet from the Loeber boathouse at this point we would still be keeping it parallel to the Loeber boathouse it give me 7 ½ feet out to launch boats so it makes this one side unusable to get out a wide boat and trailer plus it points us toward this rock. The yellow line to the rock is approximately 42 feet to the front of the rock offshore. The only reason why I wouldn't like the 2-bay wide boathouse because we are losing one side of the boathouse

Jim "But you are able to put 2 boats inside side by side."

Steve "We are about to get 2 boats in side by side, correct."

Jim" so you're talking the outside boat and putting inside."

Steve "We are losing usage; every single boathouse has sides on it."

Jim "But your going from a 12-foot boathouse in the inside with the green proposal to 22 foot. So, you can put 2 boats side by side in the blue boathouse."

Steve "Yes, correct. Inside." Steve explains that they will be able to put 4 boats with the green boathouse. He says that DEC doesn't want any structures closer than 10ft. "So, I would have to re-engineer this to work for us. It would be a little bit of a different design."

Alan "How many boats are you planning to park there any way."

Steve "There is the caretaker's boat, at least one Boston Whaler, Pontoon boat from time to time and or other guests. If no one is at the camp, there will only be 2. I've looked at every option of this. One thing that I forgot to mention on the green boathouse is if we have (2) 20-foot boats inside a 50-foot boathouse they both will fit inside I would bring that in to 40 feet. That's another 8 feet closer to shore"

Jim "I think all we need to figure out is what are you proposing, are you proposing the blue one now?"

Steve "No, I've never proposed the blue one."

Norfolk "They want the green one, but they are trying to explain. From what I understand you have the right to yay or nay or you can put conditions on it or say we will give you this."

Steve "And to go back to your criteria of 50 % of shore front this is exceeding, and this is more crowded."

Norfolk explains that the green boathouse gets rid of one of the variances

John express that if there are two boats inside and 2 boats on the outside it would make it more expansive

Jim asks if there is another question and asked the board if someone would like to make a motion

Alan asked if Rick still wanted to put in his opinion and rick replies sure. " I know that everyone has spent a lot of time get this right, my opinion hasn't vary differently from the first day although I open to here all the differences my belief is the original boathouse is far as my understanding was 24 by 30 it was open and it seems it worked from 1927 to whenever. When these things come up, I always feel if we go through the history, we try to still with the same footprint we try to get the people to stay within the same footprint. So, I come from that perspective the purpose option dock A2 is similar but a little large. I might be inclined to go with that but in my opinion that green one sticks out into the lake to far even by pulling it back and it would be setting a really bad precedent. So that is my opinion for whatever its worth."

Jim "so let us move forward if there are no other comments. If someone would like to make a proposal of dock A3 with conditions of proper approval form the APA and DEC and on the non-walkway side 10 feet off shoreline and reduced to 56 feet in length on the other side will be 66. I'll do a roll call.

Alan "Second it."

Rick "I vote no."

Trevor "Yes."

Alan "I'm going to vote Yes."

Jim "I'm Voting yes also."

Applicants and Neighbors were dismissed.

Vote for the Deadline schedule for 2020

Jim "All in favor."

Board "Aye"

Meeting Adjourned at 7:10pm