

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

July 10, 2008

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, July 11th, 2008 at 7 pm by Chairman Ron Rubin.

Roll Call:	Ron Rubin	Present
	Glen Herbert	Present
	Jim Crevelling	Present
	Jim Bird	Present
	Mike Steppe	Present
Alternate	Ed Seus	Present

Others present included: Mary Worboys-Curtin, Mr. Curtin, Mr. & Mrs. Rodgers Williams, Jo Ellen Rollins, Mr. Davision, Mr.& Mrs. Liudvikas Bukys, Mr. Randy Ferreira, Mr. George Martin, Mr. Patrick Killen, Mr.& Mrs. Morton, John F. Phillips/CEO, and Neil Simmons/Town Bd.

A motion was made by J.Bird and seconded by J.Crevelling to approve the June Zoning Board minutes as written. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS

Chairman R.Rubin acknowledged all communications that had been received by Zoning Board Secretary, copied and distributed to Zoning Board members. Copies of all correspondence on file with respective applications.

OLD BUSINESS

Application #931 for Mary Worboys owning property at 1205 East Bluff Dr. requesting an Area Variance to build a boathouse on a lot which was created non-conforming after zoning was adopted. This lot has less than 75 ft. at the front building line.

This application was tabled from the May and June Zoning Board meetings to give the Town Attorney an opportunity to research the legal aspects of this matter for the Zoning Board and the basis for granting or not granting this request.

A memo from the Town Attorney was summarized by Chairman R.Rubin for the Zoning Board Members at the June meeting, at which time, the Attorney had requested additional

time for further research. A second memo received on July 10th, was copied and distributed to board members prior to the meeting starting. Copies of all memos on file with the application.

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Mrs. Worboys was present to answer questions for board members. It was noted by Chairman R. Rubin that the area variance test questions had been reviewed as noted in the June Zoning Board minutes.

Board Member J. Crevelling asked if there were any zoning guidelines as to how the front line of the property should be measured. It was noted that the zoning is silent on this matter except for the explanation of how to determine lot depth using perpendicular lines from the rear lot line to the front lot line and by using a chord distance line if the front lot line is not a straight line.

Mr. Curtin stated that the board members should have a copy of the survey which has a licensed surveyor stamp on it and has the front line dimensions. The surveyors have survey standards which they must go by and this survey is certified. Mr. Curtin stated that the board's recourse is to rely on the certified survey. Chairman R. Rubin stated that he wasn't sure if that was exactly the case, that the board needs to be looking at the zoning requirement of 75 ft.

Board member J. Crevelling stated that the surveyor measured the front as point to point rather than a straight line across. He was concerned that board members at least consider the straight line distance as well as the survey map of point to point.

Board Member M. Steppe asked how the frontage was assessed (i.e. number of ft. of shoreline) and if that might be the criteria for determining front footage. Board Member J. Crevelling stated that whether the width of the front lot line is 1 inch, 1 ft. or 10 ft. is not really the point, but the fact that the lot was created non-conforming after zoning was adopted. The granting of this variance opens up a "can of worms" that we do not want to open. Green space around the lake is all but gone, and it will all be gone if the board grants variances that today are 2 inches too short, but tomorrow maybe 2 ft. too short. It's a slippery slope that the board should not be on. Alternate Board Member E. Seus summarized his understanding of J. Crevelling's comments by stating that the issue is not what the lot lacks in size but the fact that it was created non-conforming. Board Member G. Herbert stated that variances are granted every month for side, front, rear yard setbacks or lot coverage issues. E. Seus stated that the heart of this issue is that the zoning is very clear about what a buildable lot is and that our zoning requires 75 ft. at the front building line. Board Member J. Bird stated that this is a boathouse not a house and that there will be restrictions on it which will lessen any impact on the neighbors.

It was also noted that the Hamlins, who were initially opposed to this request, sent a letter dated June 12, 2008, (copy on file) withdrawing their objections to this request as long as the boathouse is built as per the proposed submitted plans.

Board Member M.Steppe asked that if the board were to grant this variance could restrictions be put on this application that would restrict a house from being built on it.

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Board Member G.Herbert and Chairman R.Rubin were of the opinion (referencing the Town Attorney's memo) that restrictions could be placed on this proposal as to what could be built on this lot.

The board was in unanimous agreement that this is a SEQR Type II action.

Chairman R.Rubin stated that since there seemed to be many opinions regarding this application, asked if anyone would be willing to make a motion.

A motion was made by G.Herbert and seconded by M.Steppe to approve the boathouse as designed with the restrictions that it never be used for anything but a boathouse, not to be enlarged, not to have flowerboxes over the footprint, and with the height of the boathouse be as per the submitted plans.

The motion was carried with a poll of the board as follows: R.Rubin-deny, J.Crevelling-deny, J.Bird-grant, G.Herbert-grant, M.Steppe-grant.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of the locality.

Application #932 for Rodgers Williams owning property at 369 West Bluff Dr. to request Area Variances to build a 24' x 36' garage with a height of 22 ½ ft. with less front and rear yard setback than zoning requires and a height greater than the allowed 15 ft. for an accessory structure.

This application was tabled from the June meeting to give the applicant time to recheck the measurements and determine exactly what variances needed to be obtained, also to make sure that the board members had the correct drawing for the garage location.

Mr. & Mrs. Williams were both present and Mrs. Williams asked for a few minutes to

summarize their letter of response to an adjacent neighbor's letter that was given to the Zoning Board Members at the June meeting. (Copies of the Williams' response letter distributed to board members with one on file with application).

An email request from Linda Goodman, sister of the adjacent neighbor, was copied and distributed to board members with a copy on file with application #932.

Mr. Williams apologized to board members stating that the paperwork that they had at the previous month was in fact correct as to the location of the proposed garage. The proposed location was to provide a separation distance from the leach field area.

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Mr. Williams had taken some pictures to show the board members the importance of why for safety reasons the garage needed to be set back the requested distance from the center of the highway in order to have room to back out of the garage before driving onto West Bluff Dr.

An adjacent neighbor, JoEllen Rollins asked why the Williams couldn't back into the garage instead of driving in and then having to back out. The contractor, Dave Stone stated that the purpose of having the garage set farther back is to help the driveway water runoff so that it does not end up in the road, particularly in the winter time.

Board member G.Herbert stated that when his neighbor built his garage there had to be a certain distance maintained between the drain for his garage and the septic system/leach field located on the site.

Board members had concerns about how the bank will be stabilized and maintained. Carl Stone, contractor for Mr. & Mrs. Williams stated that the architectural plans show how the garage wall has to be built in order to help stabilize the bank and be able to maintain the bank. Drainage ditches on three sides of the garage are part of the site design for this garage and its location. Rick Ayers from YC Soil and Water has been out to the site several times to review the erosion control of the site, the proposal of how to maintain the site, the bank etc.

The area variance test questions were reviewed with the following results: #1(5-yes, 0-no), #2(3-yes, 2-no), #3(4-yes, 1-no), #4(5-yes, 0-no), #5(5-yes, 0-no).

Mr. Williams stated that the reason for the added height was to provide not only a space for storage but an area for a small workshop. Mr. Williams stated that there was to be no plumbing in or out, only electricity.

A motion was made by J.Bird and seconded by J.Crevelling to deny this application as applied for because of the substantial variance requests. The motion was carried unanimously with a poll of the board as follows: M.Steppe-deny, G.Herbert-deny, R.Rubin-deny, J.Bird-deny, J.Crevelling-deny.

The board was in agreement that this is a SEQR Type II action.

A second motion was made by R.Rubin and seconded by J.Bird to grant a modification of this application as follows: the height of the garage to be no higher than 20 ft., the front yard setback to be no less than 64 ft. as measured from the center of West Bluff Dr. to the closest point of the garage including roof overhang, with the rear yard setback being a minimum setback of 19ft. as measured to the roof overhang from the rear property line. That the drawings be signed and stamped by a certified professional engineer, and that YC Soil and Water will have an opportunity to review and approve the plans for bank stabilization and maintenance.

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The motion was carried with a poll of the board as follows: J.Crevelling-grant, M.Steppe-grant, G.Herbert-grant, R.Rubin-grant, J.Bird-grant.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of the locality.

NEW BUSINESS

Application #935 for Patrick Killen owning property at 3484 Rte 54A, Branchport, NY requesting an area variance to have a wood-tex building on his property for storage purposes. The proposed location of this building would be 8 ft. from the south side yard lot line and 4 ft. from the rear yard lot line as measured to the eaves on the roof.

Mr. Killen was present to explain to board members that at least four or five years ago there was an existing 2-story barn or carriage building located on his property that actually touched the building to the south owned by his neighbor. It was in a state of disrepair and he was unable to save it and it was removed. He stated that not realizing if he had kept a part of this building that it would have been grandfathered and the replacement building, while it might have still needed an area variance would have allowed him to place the proposed building approximately in the location that is best suited for this building.

Letters were sent to neighbors with one neighbor, Mrs. Miller, adjacent to the north, stating they had no concerns with this proposed request, (copy of letter on file with application).

The proposed building is to be 12 ft. x 24 ft. which is a little smaller than the previous building. The existing home is very old. The attic is a crawl space and does not provide much in the way of storage space. He also explained that he has a big problem with water in the basement which does not allow for much of anything to be stored down there without dealing with mold issues. The septic system and leach field area is located in the front yard area.

Mr. Killen noted that the closest neighbor to the south whose own storage building is quite close to the property line has no issues with the proposed storage building location. These neighbors also own the property directly behind the Killen property and this area is mostly woods. Mr. Killen also noted that by coming forward with the building and farther away from the side yard lot line would bring the building placement right into the driveway. It would also utilize the level area for the existing swing set and play area for his children.

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The area variance test questions were read with the following results: #1(yes-0, no-5). #2(5-yes, 0-no), #3(5-yes, 0-no), #4(1-yes, 4-no), #5(5-yes, 0-no).

The Yates County Planning Board reviewed this application and based on their review of the application materials have recommended approval of this proposed action.

A motion was made by R.Rubin and seconded by J.Bird to deny this application as applied for due to the excessive variance requests. The motion was carried with a poll of the board as follows: G.Herbert-deny, M.Steppe-deny, J.Crevelling-deny, R.Rubin-deny, J.Bird-deny.

A second motion was made by J.Bird, and seconded by G.Herbert to grant the area variance as modified by allowing the proposed structure to come no closer to the south side yard lot line than 8 ft. and a minimum of 15 ft. from the rear yard property line as measured to the roof overhang. The position and placement of the building with respect to the property lines would be at the discretion of the applicant as long as the setbacks are met.

The board was in agreement that this is a SEQR Type II action.

The motion was carried with a poll of the board as follows: R.Rubin-grant, M.Steppe-grant, J.Crevelling-grant, G.Herbert-grant, J.Bird-grant.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter

the essential character of the locality.

Application #936 for Liudvikas Bukys owning property at 471 East Bluff Dr. to request area variances to build a deck with less rear and front yard setbacks than zoning requires.

Mr. Bukys was present to answer questions for board members and to explain about the proposed deck. It was noted that the proposed size of the deck was 34 ft. long by 14 ft. wide. This is to be located over an existing concrete retaining wall near the water's edge.

There was discussion regarding what the proximity of the deck would be to the water and the height of the water lakeside of the retaining wall. Mr. Bukys noted that the area where the support posts for the deck are to be located is in an area where the ground has not been disturbed. There is a slight hill coming down from the road edge to where the landing for the deck will begin, then a set of stairs to come off the deck and down to a flat area by the edge of the retaining wall.

The area variance test questions were read with the following results: #1(0-yes, 5-no), #2(2-yes, 3-no), #3(2-yes, 3-no), #4(0-yes, 5-no), #5(5-yes, 0-no).

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Board members were in unanimous agreement that this is a SEQR Type II action.

A motion was made by J.Crevelling and seconded by M.Steppe to grant this application as applied for with the following conditions, that the deck not have a roof over it or be enclosed on the top side. Enclosure of the bottom half would be allowed if the homeowner wishes. The deck to come no closer to the high water mark tie line as shown on the submitted plan than 6'6" at the south end or an 8' 6" variance and no closer than 10 ft. at the north end or a 5 ft. variance. The rear yard setback for the deck is to come no closer than 27 ft. to the center of East Bluff Dr. as measured from the deck/stair landing to the highway center.

The motion was carried with a poll of the board as follows: J.Bird-grant, G.Herbert-grant, R.Rubin-deny based on his inability to justify the requested variances for a deck, M.Steppe-grant, J.Crevelling-grant.

In granting this area variance the board finds that the strict application of this chapter would deny the applicant of reasonable use of the land and is the minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of the locality.

Application #937 for Randy Ferreira owning property at 144 West Lake Rd., PY to request an area variance to build a 24' x 26' garage requesting a height of 19 ft. which is higher than zoning allows for an accessory building. All of the zoning setbacks for this garage are

met. The garage foundation has already been completed.

Board member J.Crevelling will not be reviewing this application due to his being related to the contractor. Alternate Ed Seus will be reviewing this application with the rest of the zoning board members.

Mr. Ferreira and his contractor, Mr. George Martin, were present to answer questions for board members. Mr. Martin stated that the garage foundation had already been completed and meets the zoning setback requirements for this location.

Mr. Martin stated that the reason for the additional height for this garage was to match the pitch of the existing house roof and mainly for aesthetics.

The Yates County Planning Board reviewed this application and based on their review of the submitted material recommended approval of the proposed action also stating that the proposed action has no county-wide significance.

The area variance test questions were reviewed with the following results: #1(0-yes, 5-no), #2(5-yes, 0-no), #3(yes-3, 2-no), #4(0-yes, 5-no), #5(5-yes, 0-no).

The additional height will allow for a small amount of storage in the upper part.

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A motion was made by G.Herbert and seconded by E.Seus to approve this application as applied for since it will fit into the location with the house without causing any view problems for neighbors. There are no neighbor homes directly behind or across the road from this property.

The motion was carried with a poll of the board as follows: R.Rubin-deny, M.Steppe-grant, E.Seus-grant, G.Herbert -grant, J.Bird-deny.

In granting this area variance the board finds that the strict application of this chapter would deprive the applicant of reasonable use of the land and is the minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of the locality.

There being no further business a motion was made by J.Bird and seconded by R.Rubin to adjourn the meeting. The motion was carried unanimously (5-yes, 0-no). The meeting was adjourned at 9:07 pm.

Respectfully submitted,

Elaine Nesbit/Secretary

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