

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

August 12, 2010

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on August 12th, 2010 at 7 pm by Chairman Glenn Herbert.

Roll Call:	Glenn Herbert	Present
	Jim Crevelling	Present
	Jim Bird	Present
	Mike Steppe	Present
	Ed Seus	Present
Alternate	Jack Hoffer	Excused
Alternate	Dwight Simpson	Present

Others present included: Max Parsons/Town Bd., Attorney Philip Bailey, and Rolf Zerges.

A motion was made by J.Bird to approve the July Zoning Board minutes as written. There was considerable discussion of the minutes regarding the way in which the area variance test questions were answered and recorded. After considerable discussion, the motion was repeated with a second to the motion from J.Crevelling. The motion was carried unanimously (5-yes, 0-no).

COMMUNICATIONS:

The Zoning Secretary and Attorney Philip Bailey had received a letter from Attorney Alan Knauf, who represents Rolf Zerges & Lynda Rummel, as well as Richard and Vicki Mills. This letter (dated August 9th, 2010) was addressed to the Zoning Board of Appeals regarding application #968 for Gerald McCarthy/Peter McCarthy.

OLD BUSINESS:

Application #968 for Gerald McCarthy/Peter McCarthy owning property on Esperanza Dr. requesting an Area Variance to build a new single family home on a pre-existing, non-conforming lot in the R1 zone.

It was noted by Chairman G.Herbert that it had been brought to the Zoning Board's attention that application #968 needed to go the Yates County Planning Board for review since the location of this parcel lies within 500 ft. of the Keuka Lake State Park. In addition, the Director of the State Park has been given notification regarding this application for input regarding the area variance request.

Therefore a motion was made by G. Herbert and seconded by J. Crevelling to table application #968 until the September 2010 Zoning Board Meeting. The motion was carried by a poll of the board as follows: E.Seus-table, M.Steppe-table, J.Bird-table, J.Crevelling-table, G.Herbert-table.

NEW BUSINESS:

Application #969 for Joan Pierri owning property at 2395 West Lake Rd. Penn Yan to allow conveyance of a small (872 sq. ft.) parcel to the adjacent neighbor to the south, to make neighbor's house have a con-forming setback to the north side yard property line.

Phil Bailey was present acting as agent for Ms. Pierri. Attorney P.Bailey gave a brief review as to why an area variance is being applied for. The property owned by Ms. Pierri is a pre-existing, non-conforming piece of property. The adjacent neighbor to the south also has a pre-existing, non-conforming piece of property. The neighbor's house is also located closer to the north side yard property line than zoning allows.

Ms. Pierri is willing to convey a small 872 sq.ft. parcel of land to her neighbor to the south so that the neighbor's house will have the required side yard setback.

Board members discussed the application and reviewed the application material. J.Crevelling asked what the reason would be for making the neighbor's house come into compliance with the side yard setback. Atty. P.Bailey stated that he thought the original reason for the neighbor to the south, Mr. Achzet, wished to build a porch addition on to his house. Since that time, he has had serious health issues, and is now concerned that if he and his wife have to sell their place, that at least this issue of having the required side yard setback, would not be an issue that might cause a problem for the sale of the house.

At the present time, both parcels of land are pre-existing, non-conforming, however, the Achzet lot has a second zoning issue that the house does not meet the required side yard setback requirement of 10 ft. from the north side yard property line. If the small sq. ft. conveyance of land is made from the Pierri lot to the Achzet lot, then the Pierri lot becomes more non-conforming and the Achzet lot will become more conforming in lot size and will also bring the house into compliance for side yard setback purposes.

It was also noted that even if the Pierri lot becomes more non-conforming, the sq. foot lot size will still be greater than the Achzet lot.

The area variance test questions were reviewed with the following results:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. (0=yes, 5=no).

2) Whether the benefit of the applicant can be achieved by some feasible method other than an area variance: (5-yes, 0-no). The applicant and the neighbor could swap equal amounts of land so that lot sizes do not change only the lot line between the two parcels would be changed.

3) Whether the area variance is substantial: (0-yes, 5-no)

4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (0-yes, 5-no).

5) Whether the alleged difficulty is self-created: (yes-1, 4-no). Yes, the neighbors could swap land even up, even though the lot line between the two parcels would change.

This application was reviewed by the Yates County Planning Board with the determination that this referral has no county-wide or inter-municipal impacts and is sent back to the local zoning board to take action.

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

A motion was made by G.Herbert and seconded by E.Seus to grant this area variance application based on the fact that with the conveyance of small parcel of land, the Pierri property, which is pre-existing, non-conforming will become more non-conforming, but will still be larger than the Achzet lot, and the Achzet, which is also pre-existing, non-conforming will become more conforming in lot size and will come into conformance with the required side yard setback of 10 ft. from the north side yard property line.

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

OTHER BUSINESS:

There being no further business to come before the board, a motion was made by J.Bird and seconded by M.Steppe to adjourn the meeting. The motion was carried unanimously (5-yes, 0-no) and the meeting adjourned at 8:30 pm.

Respectfully submitted,
Elaine Nesbit/Secretary