

Approved  
(3/10/2011)

TOWN OF JERUSALEM  
ZONING BOARD OF APPEALS

February 10, 2011

The regular monthly meeting of the Town of Jerusalem Zoning Board was called to order by Vice-Chairman Jim Crevelling on Thursday, February 10<sup>th</sup>, 2011 at 7 pm.

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

Others present included: Attorney Don Schneider, William Sutherland, Max Parson/Town Bd., Phil Pielow, and Richard Correnti.

A motion was made by E.Seus and seconded by J.Crevelling to approve the January Zoning Board minutes as written. The motion was carried (4-yes, 0-no).

COMMUNICATIONS:

Board Members had received copies of Yates County Planning Board reports for both applications #977 & #978 and a copy of the Jerusalem Planning Board report for Application #977.

VARIANCE/SPECIAL USE REVIEW:

Application #977 for William Sutherland for property located on the corner of Assembly Ave. and Pear St. requesting a Special Use permit to build a five unit rental apartment, a use which is allowed as a special permitted use in the R2 zone (Article VII) and per the conditions of Article X and XII.

Mr. Sutherland was present along with Attorney Don Schneider to present this application to the Zoning Board and to answer any questions or concerns that the board members might have.

It was noted by Mr. Sutherland and Attorney Schneider that a similar application for Special Use for a rental apartment had been approved by the Planning and Zoning Board in 2007. The special use was never implemented due to some work changing utilities that had to be done on the lot and then the turndown of the economy at that time.

In the new application the proposed plan was almost identical to the 2007 application that had received approval. Mr. Sutherland noted that they had taken into consideration all of the recommendations that were discussed in 2007 and they would be staying with the same plan.

It was noted that this new application had been reviewed by the Yates County Planning Board with a recommendation for approval of this special use subject to the comments and recommendations of Rick Ayers, Yates County Soil and Water Department.

The Jerusalem Planning Board had also reviewed this application and recommended approval based on a previous approval in 2007 and subject to the comments and recommendations of Rick Ayers.

It was noted in the SEQR review by the Jerusalem Planning Board that any concerns regarding erosion control and storm water runoff would be mitigated by the preparing of an erosion and storm water control plan as per the recommendations of Rick Ayers. The plan would be implemented as part of the approval of the special use permit. A negative declaration was given for this proposed action.

There were at least two zoning board members that remembered the other application for special use that was granted for this same property.

There were some questions about required parking spaces and it was noted that for each residence it is required to have 1.5 parking spaces per living unit. The question came up as to other things being parked on this property such as boat trailers, etc. It was noted that the owner/applicant was willing to put something in the leases that would designate the areas that are to be used by the tenants for parking. By having the parking designation in the lease, any new tenants coming in would then be made aware of this designation.

There being no further discussion, a motion was made by J.Bird and seconded by M.Steppe to grant this application for Special Use for the five unit rental apartment subject to the conditions sited with the 2007 special use approval, and subject to the recommendations of an erosion, storm water control plan as noted by Rick Ayers also subject to the owner providing language in the leases that will provide for the designated parking spaces which are to be used by the tenants.

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

Application #978 for Richard & Carol Correnti owning property at 2245 West Lake Rd. Penn Yan to request area variances to install a bridge span for structure access, and stairs from the bridge span to deck area then wrapping around the east side of the cottage with stairs to beach from the deck.

The area variances needed are for the distance from the high water mark and excessive lot coverage.

Mr. Correnti and his contractor Mr. Phil Pielow, were present to discuss the application with the board and to answer any questions.

It was noted that this application had been reviewed by the Yates County Planning Board and a vote to disapprove this action was made based on the requested variance being excessive.

There was some concern as to whether the materials as submitted to the Yates County Planning Board may have been misunderstood with regards to the cottage itself. The application paperwork noted that a boathouse had been removed as having being pre-existing, non-conforming. The cottage was partially removed and has already been rebuilt on same footprint all in accordance with zoning and per the building permit that was issued.

The new requested additions now require area variances for a set-back from the high water mark and for lot coverage which exceeds the allowable 20%.

The applicant had provided a survey map showing the property, but there was concern with regards to the high water mark. This property has a retaining wall, but it does not cover the entire lot front.

Board members had two concerns, one of which was to not allow a structure to be built out past the high water mark. The other concern was for not allowing excessive lot coverage and it was noted that they had granted lot coverage in the past but not much beyond 24 to 25%. While noting that each application must stand on its own merit, the board felt that they needed to make a real effort to stay as close to the allowed lot coverage as possible.

Mr. Correnti stated that he would like to have kept the entire proposed deck area, but if the board did not feel that they could grant this, then he was willing to make a compromise.

The issue of safety was discussed, in that, the means of access to the beach at the present time was to go through the cottage in order to go out and down the stairs to the beach area. It was noted that if an issue came up on the beach and the cottage happened to be on fire or there was some other disaster, no one would be going through the cottage to get down to the beach and this could become a real problem. It was noted therefore, that the board could allow some variance to be given for purposes of access and safety.

The board reviewed the area variance test questions as follows:

1) Could granting of the area variance change the neighborhood character: (4-yes, 1-no)

The granting of the area variances as requested would change the character of the neighborhood based on the deck coming out over the high water mark and the lot coverage would be 8 to 9 % over what zoning allows.

2) Are there alternatives that would not require an area variance: (2-yes, 3-no); The alternatives to this application would still require an area variance but the amount of variance granted could be considerably reduced.

3) Is the request substantial: (5-yes, 0-no) The application for area variance as written is substantial. There would be no setback from the high-water mark, and in fact the deck would be past the high-water mark with lot coverage that would increase beyond what is already there as being pre-existing.

4) Would the granting of this variance have potential adverse impacts on physical or environmental conditions in the neighborhood: (4-no, 1-yes). The board did not think that the increased lot coverage or lack of no setback from the high-water mark would make any difference physically or environmentally since the proposed deck would be cantilevered and the stairs as proposed would be built for access to the beach and provide a safer way of access. In addition, as stated earlier, the pre-existing cottage had been partially removed and then replaced in accordance with zoning and building permit regulations. There had been some confusion about this and the way in which the application had been presented. The pre-existing boathouse had been removed and the applicant wished to re-capture some of that square footage into the requested deck.

5) Is the alleged difficulty self-created: (4-yes, 1-no).

There was continued discussion about the application and what could be worked out. Board members were in agreement that the application as requested would not be granted if put to a vote at this time. However, there was still a question about the location of the high-water mark and a question about what the lot coverage was prior to the removal of the boathouse. There was also a question as to the lot coverage as it exists today, without the boathouse and prior to any variances being granted.

After much discussion, the applicant asked if this application could be tabled until the April Zoning Board meeting to allow time for him to contact the surveyor to have the high-water mark established taking into consideration the retaining wall. It would also give the applicant a chance to rework the requested deck area and stairs for access, taking into consideration the concerns that had been expressed by zoning board members.

A motion was made by J.Bird and seconded by M.Steppe to table this application until the April meeting. The motion was carried with a poll of the board as follows:  
J.Crevelling-agree, M.Steppe-agree, E.Seus-agree, D.Simpson-agree, J.Bird-agree.

OTHER BUSINESS:

Board member Jim Bird stated that he had attended the meeting of the Finger Lakes and Cultural Museum as interviews were conducted regarding construction companies that might be hired for the museum construction. Progress continues to be made as this project moves forward.

There being no further new business a motion was made by M.Steppe and seconded by J.Crevelling to adjourn the meeting. The motion was carried unanimously (5-yes, 0-no) and the meeting was adjourned at 8:35 pm.

Respectfully submitted,  
Elaine Nesbit/Secretary