

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

September 10th, 2015

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, September 10th, 2015 at 7 pm by Chairman Glenn Herbert.

Roll Call:	Glenn Herbert	Present
	Jim Crevelling	Present
	Ed Seus	Excused
	Dwight Simpson	Present
	Earl Makatura	Present
Alternate	Rodgers Williams	Present
Alternate	Joe Chiaverini	Present

Others present included: John F. Phillips/CEO, Gary Dinehart/Town Bd., Steve McMichael, Brian & Susan McKinnon, Jerry Hiller, Tony Tufano, Dave Sweet, Tim Cutler/Planning Bd., and Lynn Barry.

A motion was made by G.Herbert and seconded by J.Crevelling to accept the August Zoning Board minutes as written. The motion was carried unanimously.

With Zoning Board member E.Seus excused, Chairman G.Herbert stated that alternate, R.Williams, would be the acting member for tonight's zoning board meeting.

COMMUNICATIONS:

The Zoning Board was in receipt of a letter from the Yates County Planning Board regarding their review and determination for Application #1052 Area Variance request, (copy on file).

SPECIAL USE/AREA VARIANCE REVIEW

Application #1052 for Krog Corporation representing lands to be leased from Keuka College to request area variances to build a 2 story building with first floor at 14,965 sq. ft. and a second floor with slightly less sq. footage having the front of the building facing the corner of Assembly and Central Ave. needing front yard setback variances from Central Avenue and Chestnut Street and a lot coverage variance that exceeds the allowable 20% coverage by .017%.

This application for Site Plan and SEQR was reviewed by the Yates County Planning Board at their August 27th, 2015 Planning Board meeting and the motion to approve was denied.

This application for Area Variances was also reviewed by the Yates County Planning Board at their August 27th Planning Board meeting and the motion to approve was granted.

Chairman G. Herbert stated that since the Jerusalem Planning Board had not taken any action on the Site Plan review and the SEQR that the Zoning Board would not be reviewing this application but would table the review until the October 8th Zoning Board meeting. He stated that it was important to have the approvals from Yates County Planning Board and the Jerusalem Planning Board regarding the Site Plan for Keuka Commons before the Zoning Board grants Area Variances.

A motion was made by J.Crevelling seconded by R.Williams to table application #1052 for Keuka Commons for Area Variances until the October Zoning Board meeting. The motion was carried with a poll of the board as follows: D.Simpson-table, G.Herbert-table, E.Makatura-table, R.Williams-table, J.Crevelling-table.

Application #1055 for Keuka College for property at 577 Assembly Ave., Keuka Park, NY to request Area Variances for two existing signs/scoreboards that are located respectively at the Softball and Baseball fields at the Jephson Athletic Complex. These signs/scoreboards require height variances and one sign requires an area variance for the sq. ft. area of the sign itself.

There was some discussion regarding the fact that these signs/scoreboards have been in place for approximately thirteen or fourteen years respectively. The fact of their existence was first noted when the Contractor's submitted a site plan review for the new lacrosse field and it was noted that a new led replacement sign/scoreboard was intended for the lacrosse field. Code Enforcement Officer John F. Phillips stated that a permit was needed for the replacement sign and once it was noted that the height would be in excess of 15 ft. that an Area Variance would be required. This application came before the Zoning Board for review in July of 2015 and was approved. It was at the July meeting that the other signs/scoreboards came into question as to their being permitted and whether area variances had been obtained for their height and area sq. footage.

Keuka College Staff Member, Tony Tufano made out an application for a building permit for the two existing signs which was rejected by the Code Enforcement Officer because of both having their height in excess of what is allowed by zoning and one because of its area sq. footage. Mr. Tufano then applied for Area Variances for the two signs/scoreboards. The application was placed on the agenda for a Public Hearing for the August Zoning Board meeting.

The Public Hearing was held at the August 13th Zoning Board meeting. There was some controversy regarding the placement of one of the signs/scoreboards. The Zoning Board tabled the matter until the September Zoning Board meeting.

Chairman G.Herbert made the announcement that the Public Hearing for Application #1055 was closed and that there would be no further public comment on this application. The zoning board will review the material that they have on this application and then they will make a decision.

He stated that he was passing out a paper that had some guidelines that was given to him by the attorney which was to help the zoning board members determine if these signs/scoreboards were an actual sign or a structure.

He also noted that the College had removed the Kuhl Field part of the sign on the north end of the baseball field and then had painted the back side a non-reflective green color.

Chairman G. Herbert then discussed the wording of what a sign is and gave the board members a few minutes to review the paperwork regarding the definitions. Mr. Herbert stated that in his opinion the way he interprets the definition of signs that these scoreboards fall under the category of structure.

Board members commented regarding their thoughts of whether these were signs or scoreboards.

J. Crevelling stated that in his opinion, the decision was already made two months ago when an area variance was granted for a replacement of an older sign/scoreboard with a new led sign/scoreboard. That area variance was passed unanimously. The request came about because the Code Enforcement Officer rejected a building permit request for what he determined was a sign and thus did not meet the code requirements and an application for an area variance was applied for and received. When the Zoning Board voted unanimously to approve that variance, they were upholding the Code Enforcement Officer's decision regarding his determination of it being a sign, no one was questioning it then.

Chairman G. Herbert called for a vote of the board as to whether this would be a sign or a structure. Zoning Secretary asked how he wanted this written into the minutes since the vote being called for would be the board's interpretation, the Code Enforcement Officer having already determined that this is a sign with a permit being required and an area variance required for excessive height.

J. Crevelling stated that the interpretation request should come from the College (the applicant), and did not feel that this was not appropriate. Chairman G. Herbert stated that this was new information and that the vote should be taken regarding this matter. J. Crevelling stated that this information was not new, that in fact, it is in the code book and was already in place when the action was taken two months ago on the first sign/scoreboard.

Further discussion continued and it was finally determined that a vote would be taken by the board which would either uphold the Code Enforcement Officer's interpretation that in fact these are signs and required permits and area variances due to their height and one area variance for area sq. footage; or that these are just structures not requiring variances.

The following poll of the board resulted as follows: R. Williams-sign, D. Simpson-sign, G. Herbert-structure, E. Makatura-sign, J. Crevelling-sign.

There was some further discussion by the board members regarding the signs/scoreboards.

J. Crevelling asked Keuka College representatives if they had been able to locate any paperwork, i.e. Site Plans or permits with regards to the signs/scoreboards as requested from the August Zoning Board meeting. J. Hiller stated that they had not been able to locate anything and had not reached out to the Contractors they had hired to draw up the 2001 Site Plans for the Athletic Fields.

Having determined by a majority of the board that these were signs, the board then reviewed the area variance test questions for the two signs/scoreboards with respect to their height, since by the removal of the Kuhl Field signage the area sq. footage of the one sign has been reduced so that it brings it into compliance with what zoning allows.

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

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property owners will be created by the granting of the area variance: (1-yes, 4-no) G.Herbert-no, J.Crevelling-no, E.Makatura-yes, D.Simpson-no, R.Williams-no.

2. Whether the benefit to the applicant could be achieved by some other feasible method than an area variance: (2-yes, 3-no); G.Herbert-no, J.Crevelling-no, E.Makatura-yes, D.Simpson-no, R.Williams-yes.

3. Whether the requested variance is substantial: (3-yes, 2-no) G.Herbert-no, J.Crevelling-yes, E.Makatura-yes, D.Simpson-no, R.Williams-yes.

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

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

A motion was made by G.Herbert and seconded by D.Simpson to grant the area variances for the height of the two signs/scoreboards respectively. The sign at 22 ft. 5 in. high at the softball field and the other sign at 21 ft. 4 in. high at the north baseball field noting that the area sq. footage has been reduced and this part of the sign is now in compliance with the Zoning code requirement being less than 150 sq. ft.

The motion was carried with a poll of the board as follows: E.Makatura-grant, R.Williams-grant, J.Crevelling-deny, because there is no other Site Plan other than what the Town Bldg. Dept. has, to show that the sign on the north Baseball field is in the wrong location, therefore the Zoning Board should not be taking action on this application, D.Simpson-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.

Application #1056 for Steve McMichael owning property at 4726 West Bluff Dr. Keuka Park, NY requesting Area Variances to build an entrance to his existing home at this location and to add a covered porch on to the front side of his home that faces the lake.

The entrance addition would be located on the rear section of the home that is on the lot located between West Bluff Dr. and the lake. The addition will not meet the required setback as measured from the center of the traveled way to the closest part of the proposed addition.

The setback would only be 32 ft. and the required setback is 44.78 ft. The covered porch on the front of the home (lake side) would not be 15 ft. from the high-water mark as required but would only be 12 ft.

Board members had been out to visit the site. There were few questions regarding this application and there had been no concerns from neighbors

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

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property owners will be created by the granting of the area variance: (5-no, 0-yes).
2. Whether the benefit to the applicant could be achieved by some other feasible method than an area variance: (5-no, 0-yes).
3. Whether the requested area variance is substantial: (5-no, 0-yes).
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (5-no, 0-yes).
5. Whether the alleged difficulty was self-created: (5-yes, 0-no).

A motion was made by G.Herbert and seconded by J.Crevelling to grant the application for the proposed main entrance to the home to come no closer to the center of the traveled way than 32 ft. and the proposed enclosed porch on the front of the home to come no closer to the high-water mark than 12 ft. with both measurements to be taken from the closest point of the building as measured to the center of the traveled way and to the high-water mark respectively.

The motion was carried unanimously with a poll of the board as follows: E.Makatura-grant, R.Williams-grant, D.Simpson-grant, J.Crevelling-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.

Application #1057 for Brian and Susan McKinnon owning property at 693 Beechnut Rd., Branchport, NY requesting an Area Variance to build a 7 ft. by 10 ft. addition to an existing bedroom to enlarge the room with the addition encroaching the north side yard lot line as does the cottage itself which is pre-existing non-conforming. The location of the pre-existing cottage from the north side yard property line is approximately 2.5 ft. at its closest point and then widens to approximately 3 ft. from the lot line.

The McKinnons are also planning to add a deck 18ft. by 15ft. to the west side of the cottage which will meet the required zoning setbacks.

There were no neighbor concerns and board members had reviewed the paperwork and some had visited the site .

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

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

2. Whether the benefit to the applicant could be achieved by some other feasible method than an area variance: (5-no, 0-yes).

3. Whether the requested area variance is substantial: (4-yes, 1-no) G.Herbert-yes, R.Williams-yes, E.Makatura-yes, because the Zoning Code requires a 10 ft. side yard setback and this request is for a 3 ft. set-back. J.Crevelling-yes, for the same reason. D.Simpson-no, because the house is pre-existing, and this proposed addition will be following along the same line as the house with the distance being 3 ft. from the property line.

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

5. Whether the alleged difficulty was self-created: (5-yes, 0-no).

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

A motion was made by J.Crevelling and seconded by G.Herbert to grant application #1057 for 693 Beechnut Rd. to add a 7 ft. by 10 ft. addition to an existing bedroom to be no closer to the north side yard lot line than the existing cottage following the same line of construction approximately 3 ft. from the north side yard property line. The proposed deck (18.5 ft. by 15.54 ft.) being added to the east side of the cottage will meet the required zoning setbacks.

The motion was carried with a poll of the board as follows: E.Makatura-grant, R.Williams-grant, D.Simpson-grant, G.Herbert-grant, J.Crevelling-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 other business for discussion, a motion was made by R.Williams and seconded by D.Simpson to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,
Elaine Nesbit/Secretary

