

Approved

Town of Jerusalem
Zoning Board of Appeals

October 12th, 2017

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, October 12th, 2017 at 7 pm by Chairman Glenn Herbert.

Chairman G. Herbert asked all to stand for the pledge to the Flag.

Roll Call:	Glenn Herbert	Present
	Ed Seus	Present
	Rodgers Williams	Present
	Earl Makatura	Present
	Joe Chiaverini	Present
Alternate	Kerry Hanley	Present
Alternate	Ken Smith	Excused

Others present included: Jan Butler, David Plumlee, Donald Tickner, Maxwell Simmons, Ivan Martin, R. John Perrin, Michael & Kathy Morton, Jim Walton, and other interested citizens and property owners.

A motion was made by G.Herbert seconded by J.Chiaverini to approve the September Zoning Board minutes as written.

COMMUNICATIONS:

Zoning Board members had received several emails and letters of communications with regards to several of the applications that are on the agenda for review for the October Zoning Board Public Hearing. Copies of these emails and letters are on file with the respective applications.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1100 for Frank Guerrieri owning property at 1064 Esperanza Dr., Keuka Park requesting an Area Variance to remove and replace a cottage and to build a new boathouse with the proposed placement of the new boathouse being less distance from the high-water mark than zoning allows. This property is located in the Lake Residential Zone.

Dave Plumlee, contractor for Mr. & Mrs. Guerrieri was present to answer questions for the board members. G.Herbert, Zoning Board chairman, noted that board members had received several emails and a letter with regards to this application. He noted for the people in the audience that the board would only be dealing with the area variance for the distance of the boat house from the high water mark.

ZBA member E. Seus asked the contractor that since this is new construction why it can't be built to code.

The contractor stated that he had already proposed the new location to be as far back to the bank as he could be without having to disturb the bank itself and dig into the bank.

G.Herbert also commented that a boat house is essentially that, a structure to be used for a boat at the water. He noted that the farther away from the water you are the more investment you have in track and hoist to get it in and out of the water.

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 properties will be created by the granting of the area variance: (4-no, 1-yes) G.Herbert-no, E.Makatura-no, R.Williams-no, E.Seus-yes, J.Chiaverini-no.

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

3)Whether the requested area variance is substantial: (4-no, 1-yes) G.Herbert-no, R.Williams-no, E.Makatura-no, E.Seus-yes, J.Chiaverini-no.

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition 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 agreement that this was a SEQR Type II.

A motion was made by G.Herbert and seconded by R.Williams to grant a five foot variance for the proposed new boat house with a setback of 10 ft. from the highwater mark as measured from the closest part of the boathouse including the roof overhang. The motion was carried with a poll of the board as follows: J.Chiaverini-grant, E.Makatura-grant, E.Seus-deney, R.Williams-grant, G.Herbert-grant.

Application #1104 for Michael Morton owning property at 4679 East Bluff Dr., Penn Yan, NY requesting an Area Variance to eliminate an existing 12 ft. by 16 ft. storage shed and add 2 bays to an existing garage with the proposed structure to be 22 ft. by 22 ft. and the proposed building to be placed 9 ft. 6 in. from the rear yard property line requesting an area variance for the setback from the rear yard property line being less than zoning requires and also requesting an area variance for lot coverage as this will be increased by adding the two bays to 32%. The existing lot coverage at the present time is 27%. This property is located in the Lake Residential Zone.

Mr. Morton was present to answer questions for the board members.

E.Seus asked to be recused from taking part in the review of this application. Alternate Kerry Hanley would review this application in his place.

Chairman G.Herbert stated for the board that in the almost 13 years that he has been on the board he does not remember having granted an area variance for lot coverage of over 24% to 25%. He noted that the applicant's lot coverage is already at 27% from a prior area variance that was granted a few years ago.

Mr. Morton stated that the 2 bay addition would not be coming any closer to the rear yard lot line than the existing garage structure but would be along the same line parallel to the rear yard lot line.

K.Hanley asked why the need for the 2 bay addition. Mr. Morton stated that he was looking to remove the older wood-tex storage building then store the items from that building in one of the new bay additions and also to have a workshop area. The other area would be to store a new car that he wanted to buy.

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 properties will be created by the granting of the area variance: (2-no, 3-yes) G.Herbert-yes, R.Williams-no, E.Makatura-yes, J.Chiaverini-no, K.Hanley-yes.

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

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

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: (2-no, 3-yes) G.Herbert-yes, R.Williams-no, E.Makatura-yes, J.Chiaverini-yes, K.Hanley-no.

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

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

There was a brief discussion about adding one bay instead of two bays, but the lot coverage would still be increased even with the removal of the wood-tex storage building.

There being no further discussion, a motion was made by G. Herbert and seconded by E.Makatura to deny the Area Variance application based on the fact that the existing lot coverage is already at 27% lot coverage and the request for additional lot coverage is excessive.

The motion was carried with a poll of the board as follows: J.Chiaverini-deny, R. Williams-deny, K.Hanley - deny, E.Makatura-deny, G.Herbert-deny.

Application #1105 for Larry Lanpher owning property at 685 Beechnut Rd. requesting an Area Variance to allow an existing garage which was built to a height of 20 ft. to remain as built. The garage is located in the Lake Residential Zone on a lot between the road and the lake and the height of the garage at this location should only be 15 ft. in height. This property is located in the Lake-Residential Zone.

Mr. R. John Perrin, contractor, for Mr. Lanpher, was present to answer questions for the board members.

Board members were in receipt of letters and emails from adjacent neighbors with regards to this area variance request (copies on file with the application).

There was considerable dialogue between the contractor and the board as to how this garage was able to be built to its present height of 20 ft. when only 15 high accessory structures are allowed on the lake side of the road in the Lake-Residential Zone.

Board member E. Makatura stated that as a contractor himself when he works in other townships the first thing to do is find out what the rules are and how they differ from the area in which you, as a contractor, reside.

The building permit application paperwork was reviewed by the board which did not have a height dimension shown in the original paperwork.

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 properties will be created by the granting of the area variance: (3-no, 2-yes) G.Herbert-no, R.Williams-no, E.Makatura-yes, E.Seus-yes, J.Chiaverini-no.

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

3)Whether the requested area variance is substantial: (3-no, 2-yes) G.Herbert-no, R.Williams-no, E.Makatura-no, E. Seus-yes, J.Chiaverini-yes.

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition 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 was a SEQR Type II action.

In the discussion prior to a motion being made, board members deliberated on the concerns that each one of them had with regards to the granting or not granting of this area variance.

Chairman G. Herbert stated that in all of his years of being on the board he does not recall that the board has ever asked anyone to redo a structure, however, it is not out of the realm of possibility for the board to ask that the garage be brought into compliance.

The contractor stated that the roof was a pre-built truss system and was built to go with the 3 ft. raised heel.

Board Member R. Williams stated that he felt that the 20 ft. garages should be allowed on both sides of the road in the Lake-Residential Zone.

Board Member E. Seus stated that this garage, with its extra height, looks like it is out of place with its surroundings.

E. Seus asked if there were any options to shrinking it down, i.e. to lowering the knee wall. The contractor stated that would not allow them to put in the correct garage doors. The trusses are engineered trusses. The raised heel was part of the design for the way the garage was to be built to allow for the extra height for the walls to accommodate the 8 ft. doors and any other options of change to bring the garage into compliance would be very, very costly.

A motion was made by G. Herbert and seconded by R. Williams to grant the Area Variance application to allow the Area Variance for the garage to remain as built at 20 ft. maximum height with the following statement: in granting this area variance the board recognizes that errors were made on both the contractor side and the code enforcement side.

The motion was carried with a poll of the board as follows: J. Chiaverini-grant, E. Makatura- deny, E. Seus-deny, R. Williams-grant, G. Herbert-grant.

Application #1106 for Ivan Martin for property at 2297 Yatesville Rd., Penn Yan, NY requesting a Special Use Permit to operate a small retail sales store out of an 18 ft. by 20 ft. existing wing on the east (back) side of his home to sell clocks, books, cookware, optics, and to service clocks, and accordions.

Small retail service businesses are an allowed use in the Agricultural-Residential Zone.

Mr. Martin was present to answer questions for the board and to explain about his business.

It was noted that the Jerusalem Planning Board reviewed this application at their meeting on the 5th of October and approved the Site Plan and made a negative declaration with regards to the SEQR review for both the Site Plan and the Special Use application.

There were a couple of questions with regards to a sign for advertising and possibly some outside lighting during the winter months when it gets dark earlier.

A motion was made by E.Seus and seconded by G. Herbert to grant the Special Use Permit as applied for. The motion was carried with a poll of the board as follows: E.Makatura-grant, J.Chiaverini-grant, R.Williams-grant, G.Herbert-grant, E.Seus-grant.

Application #1107 for Susan Nagy for property at 3219 West Lake Rd., Penn Yan requesting an Area Variance to place an 8 ft. by 10 ft. storage shed on a lot with less setback from the high-water line than zoning requires.

Jan Butler from Connect-A-Service, contractor for Susan Nagy, was present to answer questions for board members and to present the application.

Board members who had been out to visit the site were unsure about the actual location of exactly where the high-water mark really was. They noted that there was a stake on the beach with a ribbon on it but they were unsure as to what this stake represented.

The board had also received a letter from concerned neighbors who had just recently purchased property adjacent to the Nagy property and also had questions about the placement of this storage building, (Letter on file with application).

There was discussion among board members about the fact that the beach area seemed to be very narrow in this area. It was also noted by the neighbors that the Nagys owned two other properties north of this lot and the question was asked why there was no consideration given for putting this storage shed on one of these other two properties.

The question came up again about the high-water mark and it was suggested by Chairman G.Herbert that the board really needs to know exactly where this mark is before an area variance can be granted.

He then suggested that the board table further review of this application until the November meeting. This would give Ms. Butler time to talk with her client about having a licensed land surveyor establish the high water mark and get the additional information needed for the board. Ms. Butler was agreeable with this and therefore a motion was made by G.Herbert and seconded by E.Seus to table this application until the November meeting. The motion was carried unanimously.

OTHER BUSINESS:

There being no more business, a motion was made by K. Hanley and seconded by G.Herbert to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,
Elaine Nesbit/Secretary