

Approved

Town of Jerusalem
Zoning Board of Appeals

May 10th, 2018

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday May 10th, 2018 at 7 pm by Chairman, Glenn Herbert.

G.Herbert asked all to stand for the pledge to the flag.

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

Others present included: Jim Brawdy, Dan Grace, Kara Eastwood, Michael Madonia, Daryl Jones/Town Bd., and Scott Williams.

A motion was made by E.Makatura and seconded by E.Seus to approve the April Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

There were no new communications.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1125 for James Brawdy for property at 6245 East Bluff Dr., Penn Yan, requesting an Area Variance to construct a new detached garage at this location with greater height than zoning allows at this location for an accessory structure and the initial plan was to also request an area variance for a set back from the rear yard lot line so that the garage would line up with the existing driveway. This property is located in the (R1) Lake-Residential Zone.

This application was tabled from the April meeting due to the requested area variances being substantial and to give the applicant an opportunity to come back with a revised plan.

Chairman G.Herbert stated that he would not participate in this review since he was not at the April meeting and asked R.Williams to preside over the meeting for this Area Variance Application review.

R.Williams asked Mr. Brawdy to present the revised plan as had been received in advance by the board members.

Mr. Brawdy's design architect, Gerald Shaffer, met with his client and they came up with a revised plan that changed the requested height variance to 18 ft. for the garage and the proposed placement of the garage was moved towards the lake so that the placement of the garage will meet the required set back to the rear yard property line.

R. Williams commended Mr. Brawdy for revising his plan so that the area variance requests were not as substantial as the prior plan.

Mr. Brawdy was present to answer questions for the board members. He was asked what the elevation of the garage would be versus the road elevation. Mr. Brawdy estimated that the base floor level would be about a foot below the road. E. Seus asked him if he could get it any lower and Mr. Brawdy thought he could maybe get it down to two feet below the road but it would be close.

E. Makatura noted that the ground slopes off as the building is moved towards the lake.

There being no other questions 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: (5-no, 0-yes).

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

3) Whether the requested area variance is substantial: (3-no, 2-yes) R. Williams-no, E. Makatura-no, E. Seus-yes, J. Chiaverini-yes, K. Hanley-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 unanimous agreement that this is a SEQR Type II action.

A motion was made by R. Williams and seconded by E. Seus to grant the Area Variance for 3 feet as requested allowing for a height of 18 ft. for the new garage with the condition that it not be used for living space.

The motion was carried with a poll of the board as follows: J. Chiaverini-grant, E. Makatura-grant, K. Hanley-grant, E. Seus-grant, R. Williams-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 minimal variance that will accomplish this purpose. This variance will not be injurious to the neighborhood not alter the essential character of this locality.

Chairman G. Herbert thanked the board for the good job that they had done while he was away for the winter months. He stated that he had kept up-to-date through the Zoning Board minutes with what was going on and noted that they had a couple of busy months while he was away.

Application #1127 for Michael Madonia for property at 3688 Skyline Dr., Penn Yan requesting an Area Variance to add a deck to the front of an existing home with less set-back from the front yard lot line than zoning requires. This property is located in the Agricultural-Residential Zone.

Mr. Madonia was present to answer questions for the board members. Mr. Madonia noted for board members that he basically would be covering over the cement patio area with a slightly longer covered deck/porch area. The covered porch area is to be 8 ft. wide by 22 ft. long. The requested area variance is for 3 ½ ft. or 51 ft. as measured from the center of Skyline Dr. to the porch roof overhang.

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: (5-no, 0-yes).

2) Whether the benefit to the applicant can be achieved 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 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 would be a SEQR Type II action.

A motion was made by G. Herbert and seconded by R. Williams to grant the Area Variance as requested for 3 ½ ft. with the 8 ft. by 22 ft. covered porch to come no closer to the center of Skyline Dr. than 51 feet as measured from the closest part of the porch including the roof overhang.

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

Application #1128 for Dan Grace and Kara Eastwood for property at 7675 East Bluff Dr., Penn Yan, NY requesting an Area Variance to build a 16 ft. by 24 ft. 2-story addition onto a basement that would be an extension to an already pre-existing, non-conforming building. The area variances requested are for a rear yard set-back of 2 ft. 5 in. from the center of East Bluff Dr. and 1 ft. 3 in. from the high water mark. This property is located in the (R1) Lake-Residential Zone.

Mr. Grace and Ms. Eastwood were present to answer questions for board members regarding their requested area variances.

It was noted by Mr. Grace that the prior owners whom they had bought the property from had obtained an area variance to build a similar structure but much larger than what he and Kara were planning on building. He had a copy of the plans from the former owners to show to any of the board members who wanted to see them.

It was noted, however, that the prior owners had removed a pre-existing non-conforming structure, had obtained an area variance to replace it with something more conforming, but it had never been built. By removing the previous pre-existing structure, which was a small dwelling, and not replacing it with the building that was approved by the area variance within a year's time, made the non-conforming use go away which was for two separate buildings, used for living purposes, on the same lot.

It has been approximately 4 to 5 years since the area variance for the prior owners was approved.

The question was asked what was in the bottom part of the pre-existing building which was a boathouse, i.e. was there a rail system there or any place for boat storage. Ms. Eastwood stated that there was no place for boat storage in the bottom part (basement) of this pre-existing building.

Chairman G. Herbert stated that the Attorney was quite clear in his opinion concerning another application that the Zoning Board had to deliberate on where the building was pre-existing, non-conforming and it was too close to the north side yard property line and the property owner wanted to add a second story which the board ended up denying the request because it was expanding on a non-conforming building according to the Code, Article XII, Section 160-56 B, "No non-conforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformance.

In listing the issues of the pre-existing building that are non-conforming, it is too close to the south side yard lot line, too close to the rear (road) yard lot line, and it is over the high water mark at the front lot line, although if it were truly a boat house that was used for storage in the basement part of the building for a boat or had a rail system, then it would be obvious as to why it was at or over the high water mark in its pre-existing state.

Board members were of an opinion that there was not much they could do about this application with regards to granting the area variances that were being requested. They were of the opinion that their hands were tied by the code with regards to no expansion of non-conforming buildings if it wasn't reducing the non-conformance of the building.

It was noted by board members that Mr. Grace and Ms. Eastwood had been let down by their attorney and/or Real Estate representative by not checking out these matters prior to the purchase of this property.

Prior to reading and reviewing the Area Variance test questions, Mr. Grace and Ms. Eastwood asked if their application could be tabled so that they could have time to discuss this matter with their architect.

Zoning Board Minutes
May 10th, 2018

Board members had no problem with this request. A motion was then made by G.Herbert and seconded by R.Williams to table any further review of this application until the June 14th Zoning Board meeting. The motion was carried unanimously.

OTHER BUSINESS:

A motion was made by G.Herbert and seconded by E. Makatura to request the Planning Board to be the lead agency for the SEQR Review for Application #1133 for Matthew Sensenig for Site Plan and Special Use Permit to have and operate a dog kennel on his property at 2203 Italy Friend Rd. This application for Special Use will be on the July Zoning Board agenda.

G.Herbert spoke briefly about wanting to do some work on the zoning code regarding smaller lots in the Ag-Residential Zone with regards to accessory buildings so that the set-backs could be changed for smaller lots since there have been quite a few area variances given out and this regulation needs to be reviewed and changed.

There being no further business, a motion was made by G.Herbert and seconded by R.Williams to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,
Elaine Nesbit/Secretary