

Approved

Town of Jerusalem  
Zoning Board of Appeals

September 13<sup>th</sup>, 2018

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, September 13<sup>th</sup>, 2018 at 7 pm by Chairman Glenn Herbert.

Chairman G.Herbert opened the meeting by welcoming everyone and asking 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	Ken Smith	Present

It was with regret that the board acknowledged the resignation of Alternate Zoning Board Member Kerry Hanley.

Others present included: David Smith, Shane Skinner, Barbara Lyon, Bruce Lyon, Bill Grove/Grove Engineering, and Jamie Sisson/Town Bd.

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

COMMUNICATIONS:

There was a notice of approval from the Yates County Planning Board for Application #1139.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1139 for LyonSmith Brewing Company having property at 2597 Assembly Ave., Keuka Park, NY requesting a Special Use Permit to construct and operate a Brewery under non-farm (for zoning purposes) but located in a county-adopted New York State-certified agricultural district. This also requires an Area Variance for the parking lot which does not meet the required setback from the front property line. This property is located in the Agricultural-Residential Zone and in the Scenic Overlay District.

The public hearing was opened and Mr. Lyon was present to answer questions for the Zoning Board with regards the request for the Area Variance for the parking lot for the brewery. Mr. Lyon presented a site map which showed the location of the proposed parking lot that would be located at their front property boundary line that faces Assembly Ave. Mr. Lyon noted that there is an area between his property and Assembly Ave. that is kind of a "No Man's Land" that may belong to the State Highway Department as part of the area that is road right-of-way.

He has been in touch with the State Highway Department to look into this and if possible perhaps acquire this property in the future if it is available. If he were able to do this he might not need an Area Variance, but the process could take some time. Therefore, he is proceeding with an Area Variance request for the parking area in order to move ahead with his proposed brewery special use application.

The board members had reviewed the requirements of the Scenic Overlay District with regards to the parking area setbacks noting that the required front yard setback on lots having a depth of 180 ft. or more should have a front yard setback of 60 ft. and a lot that has a depth of less than 180 ft. should have a minimum front yard setback of 1/3 of the lot depth and this applies for all buildings, structures and property improvements such as parking lots. For the proposed Lyon Smith Brewery Area Variance portion of the Application; the applicant is asking for zero set-back from the front yard property line where the proposed parking lot will come to the highway right-of-way line that faces Assembly Avenue.

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: (4-no,1-yes) G.Herbert-no, R.Williams-yes, E.Seus-no, E.Makatura-no, J.Chiaverini-no. The board members voting no were in agreement that the request was not substantial due to the fact that this request was for a parking lot.

4)Whether the proposed area variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district: ( 4-no, 1-yes). G.Herbert-no, R.Williams-no, E.Makatura-no, E.Seus-no, J.Chiaverini-yes.

5)Whether the alleged difficulty was self-created: (4-yes, 1-no) G.Herbert-yes, E.Seus-yes, J.Chiaverini-yes, E. Makatura-no, R.Williams-yes.

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

It was also noted that the Yates County Planning Board had approved this Area Variance Request at their August 23<sup>rd</sup>, 2018 meeting. Copy on file with the application.

A motion was made by G. Herbert and seconded by E.Makatura to grant the area variance application for zero setbacks from the front yard property line for the parking lot; that front yard property line being the line facing Assembly Avenue which is the location of the driveway for ingress and egress.

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

A motion was then make by G.Herbert and seconded by R.Williams to close the public hearing for Application #1139 for the Special Use portion of the application. The motion was carried unanimously.

G.Herbert made a motion seconded by R.Williams to table the review of Special Use application #1139 until the October 11<sup>th</sup> Zoning Board meeting. The Yates County Planning Board has approved the Special Use and the Site Plan for Application 1139, however the Jerusalem Planning Board will be reviewing the SEQR and the Final Site Plan at their October Planning Board meeting. The motion to table the Special Use Review until the October Zoning Board meeting was carried unanimously.

**OTHER BUSINESS:**

G.Herbert briefly discussed with board members about the issues surrounding pre-existing, non-conforming lots as well as pre-existing, non-conforming buildings and what the interpretation is per our Zoning Code. Several emails have been circulated regarding these issues with many opinions as to the interpretation of our Code. He encouraged the board members to look at other municipalities to see how they are handling these issues and has also asked our Town Attorney to research case law that would substantiate the way in which the Zoning Board is applying our code. This is an on-going subject and further discussion will continue.

There being no further business, a motion was made by J.Chiaverini and seconded by E.Seus to adjourn the meeting. The motion was carried unanimously and the meeting was adjourned.

Respectfully submitted,  
Elaine Nesbit/Secretary