

Approved

Town of Jerusalem
Zoning Board of Appeals

January 10, 2019

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, January 10th, 2019 at 7 pm by Vice-Chairman, Rodgers Williams.

The meeting opened with a welcome to everyone by Vice-Chairman R.Williams who then asked all to stand for the pledge to the Flag.

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

Others present included: Bill Grove/Engineer, Chuck Smith/Design Works Architecture, Howard Nelson, Keith & Annette Toaspern, Helen Scarpechi, Marc Nasberg, Scott Hall, Anita Maroscher, Daryl Jones/Town Board and Jamie Sisson/Town Board.

A motion was made by E. Seus seconded by R.Williams to approve the December Zoning Board minutes as written. The motion was carried unanimously.

COMMUNICATIONS:

There were no communications.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1147 for Edith Storie and Jeff Zweiben for property at 3744 West Bluff Dr., Bluff Pt., requesting an Area Variance to construct a garage 24 ft. by 24 ft. and 22 ft. high with less set back from the front yard lot line than zoning requires and 2 ft. greater in height than zoning allows for an accessory structure that is located on the east side of West Bluff Dr. when the lot is in the (R1) Lake-Residential Zone.

Mr. Bill Groves of Grove Engineering was present to represent Ms. Storie and Mr. Zweiben, the owners of this property. Mr. Groves, P.E. gave a brief explanation of the proposed plan for the garage, stating that he had initially represented Mr. Zweiben and Ms. Storie at a Planning Board meeting for Steep Slopes /Site Plan approval for the garage. The initial thought was that the garage would have a retaining wall built into the back wall as part of the garage so as to have a double wall for strength as it would be built into the bank.

Once the approval was given for the Steep Slopes Plan, the pre-construction meeting was held and the contractors began excavation and as they were digging into the bank they kept digging deeper to make the driveway wider and now have dug so deeply that they now need to have a stand-alone retaining wall which is being designed by a structural engineer. They also need to have an area variance for the proposed extra 2 ft. of height and for the setback from the road right-of-way. The required setback is 40 ft. from the front yard property line or 64.75 ft. as measured from the center of West Bluff Dr. when locating the setback on the east side of West Bluff Dr.

It was noted by Mr. Groves that by the excavation being deeper than originally planned, the garage will be setting much lower into the ground than was previously planned and therefore the garage height will not have much effect on the view shed of any of the surrounding properties.

R.Williams asked if there was any chance that the proposed garage could be moved back any farther than the requested 35 ft. (as measured from the center of the road) because this particular stretch of road has curves and does not have good vision to the north and south to see oncoming traffic when entering West Bluff Dr. from this location.

Mr. Groves stated that there was a possibility that the proposed garage could be moved back a little bit more. Other board members were in agreement with R.Williams that they would like to see a little more setback from out of the road right-of-way than the 10 ft. being applied for.

A question was asked of Engineer Bill Groves if there would be space between the garage and the engineered wall and he stated that there would be since the wall would have to have some type of a footer on it because it cannot just be a stand-alone wall. He stated that probably the space between the wall and the garage would be wide enough for someone to walk between the wall and the back of the garage.

There was a question about why there was a need for the height of the garage to be 22 ft. and it was noted that storage space was indicated on the site plan. Two board members were concerned about the increased height request of 2 ft. and felt that 20 ft. of height was adequate.

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). E.Seus, not causing a detriment but increasing area variances which he does not like.

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

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

R. Williams stated that he wanted to approve this area variance application in two parts.

The board was in agreement that this is a SEQR Type II action.

R. Williams made a motion to approve the height of the garage to be 22 ft. and seconded by E. Makatura with the condition of no water in or out and no living space in the garage and the upper part for storage only. The motion was carried with a poll of the board as follows: E. Makatura-grant, E. Seus-abstain, J. Chiaverini-grant, L. Overgaard-deny, 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 nor alter the essential character of this location.

R. Williams made a motion to approve a setback of 40 ft. as measured from the center line of West Bluff Dr. to the closest point that will be measured to the closest proposed side of the garage including the roof overhang. The motion was seconded by E. Seus and carried with a poll of the board as follows: J. Chiaverini-grant, E. Makatura-grant, E. Seus-grant, R. Williams-grant, L. Overgaard-grant.

The board was in unanimous agreement that this was a SEQR Type II action.

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 nor alter the essential character of this location.

Application #1148 for Howard Nelson for property at 2329 West Lake Rd., Penn Yan requesting an Area Variance to remove existing structure and replace with a new single family home and renovate the existing garage increasing the lot coverage over the allowed 20% by 2%.

Mr. Nelson was present with his Design Architect, Charles Smith, to discuss the proposed plan for the new home noting that the existing old boat house and ramp would be removed. The revised conceptual site plan shows the landscape stairs on the north east side of the deck facing the lake have been moved closer to being 8 ft. from the side yard property line.

The small portion of the existing garage that encroaches into the road right-of-way was reviewed by Code Enforcement Officer Zac DeVoe and the County Highway Superintendent to see if there were any issues regarding this building remaining in its present location and there were none. It was also noted that there is an electric pole located adjacent to the south side of the garage.

A neighbor that has a cottage located to the north of this property had several concerns that were brought to the board members which included whether or not a Steep Slopes Plan review would be required at this location.

Other concerns mentioned were the steps going to the water being quite close to the property line, the height of the proposed building impacting the view-shed of the neighbors to the north and south. There was a concern about whether or not there would be drainage issues with the proposed driveway. Concerns about the driveway entrance being rather close to the neighbor's property line when entering onto West Lake Rd. Another concern was for a possible shifting of the proposed new home away from the property line for privacy purposes.

Another neighbor spoke about the landscape steps being too close to the property line and should be kept at 10 ft. In addition, the height of the building was again brought up with the concern that this new proposed home would become the tallest building along this stretch of West Lake Rd. due to the way in which the height of the proposed buildings are now being measured. Always before, the height of buildings was measured from the front finished grade until the code was changed in 2007.

There being no further comments from the audience, a motion was made by R.Williams to close the public hearing on this application. The motion was seconded by L.Overgaard and the motion was carried unanimously.

Board members had been out to visit the site and one board member noted that if the house were re-designed it could be made to fit within the allowed lot coverage.

R.Williams discussed the application with board members stating that he wasn't sure that the proposed lot coverage could be reduced by 2%. Chuck Smith, the architect for Mr. Nelson, stated that there could be some things that could be done such as moving the stairs to meet the 10 ft. side yard setback even though they are landscape type stairs.

Mr. Smith also noted that the balcony could be slightly reduced and some of the roof overhangs could be reduced and with not counting the 60 sq. ft. of the garage that is in the road right-of-way which the Zoning board has no jurisdiction over then the lot coverage request could be reduced to 21%. Mr. Smith, the Architect, would provide a new revised plan showing these proposed changes and proposed new revised lot coverage.

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). E.Seus-no, R.Williams-no, J.Chiaverini-no, E.Makatura-yes, L.Overgaard-yes. E.Makatura- It will change things somewhat but will be better than it was.

2. Whether the benefit to the applicant can be achieved by some other feasible method than an area variance: (4-yes, 1-no) E.Seus-no, R.Williams-yes, J.Chiaverini-yes, E.Makatura-yes, L.Overgaard-yes.

3. Whether the requested area variance is substantial: (3-yes, 2-no) E.Seus-no, R.Williams-no, J.Chiaverini-yes, E.Makatura-no, L.Overgaard-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). R.Williams, the proposed area variance will have an effect on the neighborhood but it will not be adverse.

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

Board members were in 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 application with the condition that the lot coverage of the new home with decks and balcony be held to 21% and that the proposed location of the new house is to meet all of the required zoning setbacks from front, rear and side yard lot lines. A new revised site map showing the proposed location of the house and lot coverage is to be given to the ZAP Secretary and CEO for the Zoning files prior to a building permit being issued. The motion was carried with a poll of the board as follows: J.Chiaverini-grant, E.Makatura-deny, L.Overgaard-deny, E.Seus-grant, R.Williams-grant.

OTHER BUSINESS:

Inspection of Existing Use: Board members received copies of and Inspection that had been done by CEO Zac DeVoe at the request of Mr. Dave Hamlin in October of 2018. The Inspection was for an existing use of "The Green Barn" 12013 East Bluff Dr. per Zoning Code Article XIII Section 160-62 to specifically make it a matter of record that The Green Barn has pre-existing, separate living areas that can be and are used simultaneously by separate families and for short-term, seasonal rentals. (Copy of same on file with Zoning Office and with Town Clerk).

With respect to the Inspection and Use, which was in effect at the time that Mr. Hamlin purchased the property and continues to date and Mr. Hamlin wanting to now sell the property with the use to continue with the new owners, the subsequent request by Mr. Hamlin to the Code Enforcement Officer was made.

The Zoning Board of Appeals under Article XIII, Section 160-62 has the power to approve the Certificate of Use and Occupancy as provided by the Code Enforcement Officer. This normally takes place within 30 days from the time that a Certificate of Use/Occupancy is issued. If no action is taken by the Zoning Board, it is deemed approved by default. (See Code: Article XIII, Section 160, 60-62).

With regards to Mr. Hamlin's Certificate, while being well past the thirty days of review by the Code Enforcement Officer, the Zoning Board, read over the certificate as completed by the Code Enforcement Officer and reviewed the information under Article XIII, Section 160 60-62. A motion was made by R.Williams and seconded by E.Seus to accept the Certificate of Use/Occupancy for "The Green Barn" as issued to Mr. Hamlin by CEO Zac DeVoe on November 14th, 2018. The motion was carried unanimously.

There was a brief discussion about the changes to the code regarding pre-existing, non-conforming buildings. The changes were sent to the Town Attorney and have been returned to the Town and are now scheduled to go for public hearing.

There was also a brief discussion about applicants who apply for Steep Slopes and Area Variances. The question was asked if the applicant must go for the Area Variance(s) first. It was noted by the Zoning Secretary that their office (Zoning & Building Office) always encourage the applicant to apply for the Area Variance(s) first to make sure that they will be able to get approval from the Zoning Board for the proposed placement of the building that they are applying for before they spend money on having an engineer design a steep slopes plan that they will need to get approval for from the Planning Board before they can begin their project.

February Zoning Board meeting will be on the 14th.

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

Respectfully submitted.

Elaine Nesbit/Secretary