

Town of Jerusalem
Zoning Board of Appeals
February 14th, 2019

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, February 14th, 2019 at 7 pm by Vice-Chairman Rodgers Williams.

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

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

Others present included: Marie Bercume, Dawn Smart, Arnold Smart, Daryl Jones/Town Bd., and Jamie Sisson/Town Bd.

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

COMMUNICATIONS: A letter with regards to Application #1150 had been distributed to Zoning Board Members.

AREA VARIANCE/SPECIAL USE REVIEW:

Application #1149 for Dawn Smart for property at 3111 Kinneys Corners Rd., Keuka Park, NY requesting an Area Variance for placement of a 10 ft. by 12 ft. wood-tex shed on stone on the edge of the driveway with less setback from the road right-of-way than zoning requires which is 85 ft. as measured from the center of the road. This property is located in the Agricultural-Residential Zone and Scenic Overlay District. The front yard setback is greater in the Scenic Overlay District based on the lot size.

Ms. Smart was present to explain about her request for the area variance for 37 ½ ft. as measured from the center of the road and noted for the board that the shed placement was as far back on the stone drive area as it could be placed and that there was very little room behind where the proposed shed was to be placed and then the yard drops off very quickly.

Ms. Smart also noted that among other things the two main items to store in the shed would be her lawnmower and snow blower.

Board members that had been out to visit the site noted that there were not many other good places for the shed other than the proposed location because of the topography of the yard.

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, 0-yes

2.) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: 4-no, 0-yes. Based on the topography of the yard area there is not another method to pursue without additional time and cost that would be added to this project.

3.) Whether the requested area variance is substantial: 4-no, 0-yes.

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

5.) Whether the alleged difficulty was self-created: 4-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 the shed to be placed no closer than 37 ½ ft. as measured from the center of the road to the closest part of the storage shed including roof overhang.

The motion was carried with a poll of the board as follows: J.Chiaverini-grant, L.Overgaard-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 nor alter the essential character of this location.

Application #1150 for Larry Wilkins as represented by Marie Bercume for property at 454 West Lake Rd., Branchport, NY requesting an Area Variance to allow the pole barn to remain in its present location being 15 ft. 10 in. from the rear yard property line where 20 ft. is required. This property is located in the Branchport Service Park District.

Mrs. Bercume was present to answer questions for board members regarding the building which was partially finished and how it got built in the wrong place.

It was noted by Vice-Chairman R.Williams that an Area Variance for the front yard set-back had been given for this building in October. Mrs. Bercume agreed that an Area Variance had been given and she noted that when the building was ready to be built a decision was made by her son and the contractor to put in a 15 ft. door rather than the 10 ft. door which made the lower part of the building higher and then with the trussed roof it brought the building up to 20 ft. in height. The allowed height for an accessory structure in the Branchport Service Park District, however, is 30 ft. The builders moved the building to the south from where it was originally proposed to be built by the applicant because there was an overhead electrical wire that they felt would be too close to the building.

It was also noted that there was a concern by the adjacent neighbor to the south regarding this area variance request (copy of letter on file with application) and while the neighbor did not send a letter or voice concerns regarding the first area variance request which was for a front yard setback, the rear yard area variance request was of concern since it more directly affects his property.

Mrs. Bercume stated that the Code Officer was called for an inspection after all the holes had been dug for the poles. She stated that the CEO had come down to the property at least 2 or 3 times that day. Mrs. Bercume was unsure of why the builders had changed the placement of the building closer towards the rear yard property line.

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-yes, 0-no (E.Seus and R. Williams, yes, because it sets a precedent of building outside the building permit issued and the first area variance that was issued that did not address this situation).

2)Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. (4-yes, 0-no). R.Williams stated that it could have been built according to the original area variance as granted and the building height as stated on the building permit application.

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

4)Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district: (2-yes, 2-no) J.Chiaverini=no, L.Overgaard=no, R.Williams=yes, due to the building being partially built and asking for an area variance after the fact. E.Seus=yes, for the same reason.

5.Whether the alleged difficulty was self-created: 4-yes, 0-no.

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

A motion was made by R.Williams and seconded by E. Seus to deny the Area Variance application as requested. The motion was carried with a poll of the board as follows: J.Chiaverini-deny, L.Overgaard-deny, E.Seus-deny, R.Williams-deny.

OTHER BUSINESS:

Zoning Secretary distributed copies of Area Variance test questions from a publication of "Zoning Board of Appeals" published by James A. Coon Local Government Technical Series" (copy on file in the Zoning Office).

The review of the test questions were passed out for board members to read over and review and discuss at the March Zoning Board meeting.

The Zoning Board members were reminded that this topic has been discussed in the past, that as the test questions are read, reviewed and answered that as board members, they need to give reasons, based on how the majority of the answers are given. These are part of the findings of fact that are used to support their final decision(s) in the granting of the area variance(s).

There was a brief discussion of the new zoning code changes that have been made but have still not come through from the State yet.

R.Williams briefly discussed the changes that the committee had been making on proposed regulations for operators of dog kennels under a Special Use Permit. J.Sisson/Town Bd. member, who was also on this committee, wasn't sure whether the proposed changes had been sent to the Town Attorney for his review.

Zoning Secretary noted that Chairman G.Herbert would be back for the April meeting and that there were presently 3 applications already filed for the March 14th zoning board meeting.

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

Respectfully submitted,
Elaine Nesbit/Secretary