

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS
June 13th, 2019

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals was called to order on Thursday, June 13th, 2019 at 7 pm by Vice-Chairman Rodgers Williams.

The meeting opened with everyone standing 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
Alternate	Lynn Overgaard	Excused

There were no others present aside from the ZBA Secretary. Chairman G.Herbert was a few minutes late but heartily welcomed by the rest of the board when he arrived bringing pizza for everyone.

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

COMMUNICATIONS:

There were no communications.

AREA VARIANCE/SPECIAL USE REVIEW:

There will be a Special Use Application #1159 coming before the Zoning Board in August that requires SEQR review along with a Site Plan Review as part of this application that also needs SEQR review. A motion was made by R.Williams and seconded by J.Chiaverini to have the Planning Board act as Lead Agency for the SEQR review for Special Use & Site Plan Application #1159 for Marvin Hoover.

This Special Use Application is for a dog kennel permit which will be a replacement kennel for one that has been in existence for many years on Coates Rd., owned and operated by Irwin and Anna Weaver. Their special use application #685 which was granted in May of 2000 has been ongoing with no known complaints regarding this kennel. Marvin Hoover is the grandson of Mr. & Mrs. Weaver and would be re-locating the kennel to 2202 Sutton Rd. which was formerly his father's dairy farm and which Marvin is now purchasing and the farming now is mainly cash crops.

OTHER BUSINESS:

Several of our zoning board members have attended classes and received certificates for hours of credit towards continuing education and training.

Board members all had copies of the newly adopted/amended code regarding Pre-existing, Non-conforming lots, buildings, uses as it pertains to Code Enforcement and to them as the Zoning Board of Appeals.

It was noted that in the past, the Zoning Code did not allow for enlargement, extending or increasing such enlargement if it would increase the degree of non-conformance. No non-conforming use, or non-conforming building could be expanded.

The amended code allows the Code Enforcement Officer the ability to issue a building permit for any nonconforming building or structure to be restored, reconstructed or replaced and the structure may be increased provided such increase is within the height limits required by the allowable zoning code district.

In addition, horizontal expansion of the restored, reconstructed or replaced building or structure shall be permitted provided such horizontal expansion does not increase the degree of non-conformance and that this horizontal expansion conforms with all other regulations of the zoning chapter.

If the building is pre-existing, non-conforming, the Code Officer, must first, before any changes are made, inspect the footprint and the exact location of the building or structure. If the applicant wishes to work with the existing building/structure, then they shall provide as much documentation as possible and provide a survey map showing the location of the present and proposed structure as described. A zoning plat (provided by a licensed land surveyor) shall be required to become part of the record for the building department for either the purpose of issuing a building permit or for applying for an area variance.

If the request of the applicant is to expand the building in such a way that it will not increase the degree of non-conformance then the Code Officer may issue a building permit. If, however, the expansion of the building is increasing the degree of non-conformance, then the building permit request will be denied and the applicant may apply to the Zoning Board for an Area Variance.

This led to a discussion of the Area Variance test questions that the Zoning Board reviews for each application that comes before them. As the board reviews and answers the test questions, they then make a determination with regards to 1) possible change to neighborhood character; 2) Alternatives that would not require a variance; 3) Substantial request of the variance; 4) Effect on the physical or environmental conditions if granted; 5) Is the situation self-created.

After the board has weighed all of the answers to the questions, and the balancing comes out in favor of the landowner, the board may only grant the minimum variance necessary to relieve the landowner. The board may not simply eliminate the area requirement, rather it may relax the requirement only to the extent necessary to provide relief to the owner. In this way, the impact on the character of the community is minimized. This is in accordance with Town Law § 267-b (3)(c).

One board member noted that the increase in vertical height which may be allowed by a building permit without requiring an area variance (when all other zoning requirements are met) could be a problem where the original footprint has its location very close to a property line.

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Some Municipalities require Site Plan Review for certain zoned areas where view-sheds could be impacted when new, replacement construction or additions take place.

Next month's board meeting will be July 11th, 2019.

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

Respectfully submitted,
Elaine Nesbit/Secretary