

Approved

TOWN OF JERUSALEM
ZONING BOARD OF APPEALS

September 9th, 2021

The regular monthly meeting of the Town of Jerusalem Zoning Board of Appeals meeting was called to order on Thursday, September 9th, 2021 at 7 pm by Chairman Rodgers Williams.

The meeting opened with all standing for the pledge to the Flag.

Roll Call:	Rodgers Williams	Present
	Earl Makatura	Present
	Joe Chiaverini	Present
	Lynn Overgaard	Present
	Jim Bird	Present
Alternate	Steve Schmidt	Present
Alternate	Randy Rhoads	Present

Others present included: Daryl Jones/Town Board, CEO William Gerhardt and Mr. & Mrs. John Steeves.

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

There were no applications for August and the August Zoning Board meeting was cancelled.

COMMUNICATIONS: Board members received an email from adjacent neighbors regarding Area Variance application number 1200 (copy of email on file with application).

Board members also received comments from Highway Superintendent Tony Hurd regarding the Area Variance Application number 1200 (copy on file with application).

AREA VARIANCE/SPECIAL USE:

Application #1200 for John Steeves for property at 4442 West Bluff Dr., Keuka Park, NY 14478 requesting an area variance for a front setback of 35 ft. as measured from the center of West Bluff Dr. to the proposed new garage where 64.75 ft. is required when the building is located on the east side of West Bluff Dr. In addition Mr. Steeves is requesting an area variance for the height of his garage to be 24 ft. when 20 ft. is allowed for an accessory building. This property is located in the (R1) Lake-Residential Zone.

Mr. Steeves was present along with his wife to answer questions for board members and to discuss his project. He provided site plan drawings for the board, of his proposed project, which he had just picked up from his Engineer.

Board members took a few minutes to review the email communications which they had received and there was some confusion regarding the email notice from the Highway Superintendent.

Board Members thought they had understood what the setback requested by the Highway Superintendent was to be from the center of the traveled way rather than from the edge of the road right-of-way. It was noted that the Zoning Code refers to measurements as taken from the center of the traveled way. After considerable discussion, and reviewing Mr. Steeves site plan map, it was concluded that the desired setback measurement of the Highway Superintendent was, as his email communication noted, to be taken from the edge of the road.

It was also noted by some of the board members that this setback should probably be reviewed and changed since this is an area variance request that is repeatedly being asked for when the location is on the upper side of the road away from the lake where the required setback in the R1, Lake-Residential Zone is 64.75 ft. as measured from the center of the traveled way, or 40 ft. for the front yard setback.

Board members were concerned about the proposed height of the requested garage that Mr. Steeves was asking for and noted that someone could turn this garage into an apartment. Mr. Steeves noted that there was to be no plumbing or heating in this garage and it was simply to be used as a garage for vehicles and for showcase storage

Mr. Steeves explained that the first floor would be all concrete. Mr. Steeves explained that the garage second floor is to be used for showcase storage only. The example of what the garage would look like was taken off of the internet and showed living space, there will not be an apartment in this garage nor will it be used for living purposes, this is noted as crossed out on the plan he submitted.

Board members were concerned with the requested setback since it does not give much space in front of the proposed garage which is where most people end up parking their vehicles. One board member stated that when he tried parking his pickup truck in the current parking area, it was almost into the road right-of-way which is not a good thing. He stated that another five ft. back to the east would be better.

Mr. Steeves noted that this would require more excavation into the bank, but he thought another five feet back could be accomplished. There will be a large door located on the upper side of the garage for access to the 2nd floor to store some showcases. Access to this area would be from his existing driveway that is already in place.

There was discussion about the fact that if the garage is moved farther back into the bank, the height of the garage might no longer be a factor since the height measurement is taken from the vertical distance measured from the average elevation of the proposed finished grade at the building's lowest side elevation to the highest point of the rooftop.

Before reviewing the test questions, it was noted that the applicant was willing to move the garage back five more feet for a 40 ft. setback as measured from the center of the road and the board was not in favor of an area variance for the height of the garage where 20 ft. is allowed for an accessory structure when located on a lot that is away from the lake on the upper side of the road. It was noted once again that this might not be an issue once the garage was built into the bank and the final finished grade for measuring purposes was established.

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). No, because it is consistent with other existing properties.
- 2) Whether the benefit sought by the applicant can be achieved by some other feasible method than an area variance: ((5-yes, 0-no) The building could be reduced in size.
- 3) Whether the requested area variance is substantial: (5-yes, 0-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) There are concerns about the removal of trees in the area, but if the proper erosion control methods are taken and subsequent seeding down and plantings are done, it will help to hold the integrity of the bank after construction is done, it should not impact the surrounding neighborhood or district.
- 5) Whether the alleged difficulty was self-created: (5-yes, 0-no).

Board members noted that this application would also be going to the Planning Board for Steep Slopes review.

There being no other questions from board members, a motion was made by J. Bird and seconded by R. Williams to grant an area variance of 24.75 ft. with the garage to come no closer than 40 ft. as measured from the center of the traveled way to the closest part of the garage including the roof overhang. There will be no plumbing in the garage and it is not to be used for living purposes. It is also noted that the Town will not be held responsible for any damage due to routine highway maintenance.

The motion was carried with a poll of the board as follows: J. Chiaverini-grant, L. Overgaard-grant, Earl-grant, R. Williams-grant, J. Bird-grant. The granting of this area variance is subject to the Steep Slopes approval by the Planning Board. This motion was then amended by J. Bird to include the statement that the Zoning Board was denying the additional height as requested in the area variance application. R. Williams seconded the amended motion and it was agreed to unanimously.

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 minimum variance that will accomplish this purpose. This variance will not be injurious to the neighborhood nor alter the essential character of this location.

Board member J. Bird noted that while the granted area variance was not the 35 ft. from the edge of the road as requested by the Highway Superintendent, it was a little more than 15 ft. past the road right-of-way. There was a brief discussion again about changing the required front yard setback for a lot located away from the lake.

OTHER BUSINESS:

Board members were introduced to our new Code Enforcement Officer William Gerhardt.

There was a brief discussion about Small Service Businesses and Low-Impact Wholesale Businesses. It was noted by our Code Officer that Wholesale Businesses are different than Retail Businesses in that Wholesale is Business to Business and Retail is Business to Consumer.

In reflecting on our Zoning Code definitions, when an applicant applies for a retail business, one would need to differentiate whether it is business to business or business to consumer. This is not very clear by our zoning code definitions.

In other matters before the board, it was noted that there are three applications for the October 14th, Board meeting.

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

Respectfully submitted,
Elaine Nesbit/ZAP Secretary