

**ZONING BOARD AGENDA**  
**Thursday February 8, 2024**

OPEN MEETING / PLEDGE TO THE FLAG

ROLL CALL:

	Rodgers Williams	Present
	Randy Rhoads	Present
	Earl Makatura	Present
	Lynn Overgaard	Present
	Steve Schmidt	Present
Alternates	Donald Wright	Present
Alternates	Mike Monahan	Present

Others present included: Jim Bird. Daryl Jones, Town Board Liaison. James McKinley, CEO. Residents: Diane Cecero, Mark Whelan, Bill Grove, Doug & Lori Crawford, Jeanne & Dave Phillips, Jody Daines, Craig & Leslie Carlson, James Delaire, Phil Pearce, Rufus Shirk.

**Motion** by Rodgers Williams to approve of Thursday December 14th, 2023 Zoning Board Minutes. No meeting held in January. Seconded by Steve Schmidt; carried.

COMMUNICATIONS –

Letters of support from neighbors, see attached.

AREA VARIANCE/PUBLIC HEARINGS:

**App #1-2024**

Area Variance

James Delaire

Tax Map: (61.24-1-69) 808 Old Pines Trail

**James Delaire** explained he would like to replace his existing temporary metal carport and replace with a permanent garage that will extend closer to his house and attached to existing garage. This will extend his parking area as well.

**Rodgers Williams** will the garage occupy the same space

**J. Delaire** it will be extended closer to the house

**R. Williams** will you keep the existing garage

**J. Delaire** yes, will walk through the existing

**Jody Daines** owns the property next door, presented pictures, states that the existing garage at 808 Old Pines floods his property when it rains. He is concerned that another, larger, garage will cause more water to flood his property. He would like the water to be diverted someplace else and wants to know if the damaged caused from the rain will be fixed. The past CEO was going to help him fix the water issues.

**J. Delaire** when they redid his house he ran PVC pipes along the property line between his and Jody Daines property. Jody's wife had an issue with the pipe so he turned the pipe towards his own property to divert water.

**Rufus Shirk** (contractor) states there should be any issues with the proposed garage other than the variance requested. Other garages in the neighborhood are very similar to proposed project.

**J. Daines** states he has no issues with the garage project other than concerns of water run off

**Donald Wright** asked about exterior material of proposed garage

**R. Shirk** states it will be LP Smart Panel (wood)

**J. Daines** did the other garage get a variance or building permit

(Conversation between J. Daines and J. Delaire ensued. They were addressed by the Board to direct all conversation to the board members)

**R. Willaims** asked what variances are being requested

**Randy Rhoads** 31.5 ft front setback where 40 ft minimum is required, 8'6" variance and 4.1 ft side setback on west side where 10 ft minimum is required, 5.9' variance.

**R. Williams** is it a temporary structure

**Earl Makatura** will it be closer to the road

**J. Delaire** states it will be closer to house

**R. Shirk** states it will be closer to road

**E. Makatura** there are no stakes were the proposed building will be

**Steve Schmidt** putting stakes out is in the application

**R. Shirk** he was unaware and got cut short with previous CEO leaving

**Jim Bird** 40' set back in that area

**R. Williams** because there are drainage issues and confusion of location, recommends to table application till drainage issues are address and stakes are in place.

**Motion** by **Rodgers Williams** to table application 1-2024 till there is a solution to water issue and stakes are placed. Seconded by **Earl Makatura**; carried.

### **App #2-2024**

Area Variance

David Phillips

Tax Map: (84.44-1-14.1) 4771 East Bluff Dr

**Bill Grove** (Engineer) to table. Proposed project is to replace existing retaining wall with concrete Redi-Rock, gaining parking and main intent is to replace suspect timber wall. Owners will be renovating house into year round home and want to be sure new home will be protected from suspect timber wall. Planning Board gave approval on the grounds of Zoning Approval. Drawings show cross view with middle section out to show start, close to existing wall, and near the top of the bank. Will be almost in existing footprint.

**Randy Rhoads** any advantage to stabilizing

**Steve Schmidt** Rick Ayers from Yates County Soil and Water said sooner or later wall will fall

**B. Grove** gabion wall was put in by the town, the owners are doing town a favor by replacing wall. Will gaining parking on south side by a few feet.

**S. Schmidt** will it have guard rail

**B. Grove** yes

**S. Schmidt** was water pipe discussed by Planning Board

**B. Grove** proposed pipe slope drain coming down bank, fill with rock and broken concrete. There are erosion issues. Would like to line ditch and leave open. Connection will be tricky but will be open enough for town to maintain pipe.

**S. Schmidt** planning boards notes helped

**B. Grove** discussed with Planning Board about drainage to be included in steep slopes, its not part of the variance

**Earl Makatura** are stairs close to the road

**B. Grove** stairwells are to access shore on north end, not sure of the layout yet

**E. Makatura** plows in the winter

**B. Grove** will be 3 to 4 feet off the edge, will be out of the plow's way. Wall will be the support of the stairs on the south, north edge will need stairs as well. Confident that it will not be in the way of plowing.

Motion by **Lynn Overgaard** to approve a 32.7' rear setback where 44.75' is required for a 12.05' variance. **Steve Schmidt** seconds.

The board answered the 5 area variances questions.

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance?**

R. Williams – No, will end nicely

E. Makatura – No, it will be safer

S. Schmidt- No, help improve and get rid of falling timber

R. Rhoads- No, same

L. Overgaard- No

**2. Can the benefit sought by the applicant by some method, feasible for the applicant to pursue, other than an area variance?**

L. Overgaard- No, bank is where wall has to go

S. Schmidt- No, short on space, no other way

E. Makatura- No, same

R. Williams – No, ditto

R. Rhoads- No

**3. Is the requested Area Variance substantial?**

R. Rhoads- No, not substantial considering East Bluff Dr and location

L. Overgaard- No

S. Schmidt- No

E. Makatura- Yes, but same as existing wall that's there

R. Williams- Yes, no alternative

**4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

E. Makatura- No, will be nicer and sturdier and more stable

R. Williams- No, will be improvement  
L. Overgaard- No  
R. Rhoads- No, improve environmental condition because road could be unstable  
S. Schmidt- No, big improvement and less worried about road

**5. In the alleged difficulty self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the Area Variance?**

R. Rhoads- No, unknown when owners bought, it is a preexisting safety issue that needs to be addressed  
S. Schmidt- No, safety hazard  
R. Williams- No, situation that needs to be taken care of  
L. Overgaard- No  
E. Makatura- No, same

The board was polled as follows:

L. Overgaard- Grant  
E. Makatura- Grant  
R. Williams- Grant  
S. Schmidt- Grant  
R. Rhoads- Grant

**Motion Carried.**

**Jim Bird** asked about garage being finished.

**Jeanne Phillips** contractor will be calling for final inspection

**App #3-2024**

Area Variance

Craig Carlson

Tax Map: (109.27-1-12) 5178 West Bluff Dr

**B. Grove** at table with Carlson's. They would like to make a more usable space. They currently have a modest sized cottage on small lot. Right of Way (ROW) set back is very wide making property smaller. Road center is 40'. Would like to tear down and replace cottage with a new home. North side stairs will be replaced. Existing cottage is 2.6' off south property line, would like to center the new cottage on the property. Boathouse on the shoreline will remain. Seeking north and southside setback as well as lot coverage variances. There is preexisting lot coverage overage. Will be installing new septic system.

**Earl Makatura** 33% lot coverage is a lot

**Randy Rhoads** for the proposed house and existing boathouse

**B. Grove** if remove the boathouse, will be taking 530 square feet out of coverage. It is a .24 acre lot, which is very small. The minimum now for a lot is 20,000 square feet and if that minimum existed when lot was created this would be an issue.

**R. Rhoads and E. Makatura** this is a big ask

**B. Grove** they are asking for 500 more square feet on proposed home, it is currently 900. For the house only the coverage is 24.1%

**R. Rhoads** can see erosion on the north side of the house, this would keep growing

**B. Grove** will address erosion and control storm water with new lines and existing catch basins

**Rodgers Williams** if they took out the boathouse, they would be at 24.1% lot coverage. Code says 20% is the maximum for lot coverage. Approximately 25% coverage is existing now. This is an opposition and cannot increase the degree of non-conformity.

**B. Grove** the boat house is existing

**E. Makatura** house is also existing, will be able to make it work within approximately 25% lot coverage

**B. Grove** the lot is 6,000 square feet now

**R. Williams** nothing about lot size now

**E. Makatura** will have to make it work with what the lot size is

**Steve Schmidt** they knew the size of the lot when they bought the property

**B. Grove** if ROW were normal width would get setback

**E. Makatura** cannot use ROW towards the setback

**Lynn Overgaard** is the screen porch new

**B. Grove** yes

**R. Rhoads** suggests to come back with a different proposal

**B. Grove** is 25% lot coverage the number to be at

**E. Makatura** that would be a better number, wood stairs count towards lot coverage, stone and masonry do not

**B. Grove** (to owners) that would help to reduce coverage. It's a small house and lot to begin with, but it is within the character of the neighborhood. Cannot set precedence.

**E. Makatura** it is already bad (non-conforming), and you're making it worse

**Phillip Perce** (neighbor across road) issue with height of proposed cottage is 10' taller than existing. With height increasing and a large tree on the property with branches that extend over the home, his view of the lake will be gone. He would like the tree removed. Also, brings up that with the cut into the basement, the roots of the tree will be cut and it will become unstable or kill the tree. The neighbor, Jack, could have a tree topple onto his house and have legal issues.

**Diane Cecero** (neighbor on northside) there is now 14' between their cottage and the Carlson's. With the proposed cottage they will be 6.1' from their cottage which is 8' closer and within the 10' setback.

**R. Williams** suggests to come back with a new plan addressing lot coverage

**Leslie Carlson** what about north and south side setbacks

**R. Rhoads** code is that you should be 10' on north and south side, 15' from mean high water (mhw)

**B. Grove** if everything is within the orange box, setbacks will be good

**E. Makatura & R. Rhoads** it will be better if they come back with new proposal

**B. Grove** northside neighbor's boathouse hangs over line onto Carlson's property and is close

**P. Perce** Jack Wheeler's on the south side where the big tree is a concern. Sliding the house to the north to center is a great mistake in his humble opinion.

**R. Williams** it is a good point and that is why there is a code, the code has to be looked at the way it is. The north side neighbor's boathouse exists and it is already too close.

**B. Grove** to clarify 2.6' is to the overhang, 4' is to the house wall. (to owners) recommends to table application to the next meeting.

**Craig Carlson** the boathouse is within character and removing it and putting a lift in, is not

**B. Grove** if side setbacks are met, is 30% lot coverage okay

**R. Williams** still too much, code is 20%

**B. Grove** town let a lot be approved at 6100 square feet

**E. Makatura** cannot go over what is existing. If application is tabled, they can keep going with changes but if it is put to questions and turned down, that's it.

**Motion** by **Earl Makatura** to table application 3-2024 to the March meeting. Seconded by **Randy Rhoads**; carried.

**App #5-2024**

Area Variance

Doug Crawford

Tax Map: (95.84-1-1) 3296 West Bluff Dr

**Bill Grove** (at table with Crawford's) current property has a cottage, boathouse, couple of sheds, stairs and is bisected by West Bluff Dr (property on both sides of road). Existing cottage is very close to mhw line, 1.1' from shore line on north corner of existing cottage. Proposed cottage is to replace existing and pull back from the mhw line which allows to use grade to advantage in order to access house with a bridge from the road. Seeking variances from mhw and center line of road. Mhw will be improvement from current. Current septic is between timber wall and road, new will be across the road and will be keep anaerobic system.

**Randy Rhoads** does boathouse have water, septic and sleeping quarters

**Doug Crawford** there is water, septic is under the boathouse in a holding tank, which will be moved out of boathouse and into new house with new septic system

**R. Rhoads** what is boathouse used for now

**D. Crawford** storage utility room and recreation room

**R. Rhoads** you can only have 1 dwelling structure on property

**Lori Crawford** adding more room in the proposed cottage for sleeping and moving septic out of boathouse so that it will not be utilized for sleeping space

**B. Grove** mhw line curves, proposed it to be off the mhw, foundation line will be the same but shifted to the east

**Rodgers Williams** 26' from the road, the highway supervisor has requested not to allow anything for under 35'

**B. Grove** it is at 34.6 now

**Lynn Overgaard** bridge will be very close to the road

**R. Rhoads** is there parking across the road

**D. Crawford** yes

**R. Rhoads** easement for neighbors to the south

**B. Grove** parking on that side, other applications have gotten approved 30' without parking. Bump outs are at 30', 26' at the overhang

**R. Rhoads** do you have elevation drawings. Wont the bank be steeper

**B. Grove** new house will replace timber wall, foundation will act as a retaining wall

**R. Williams** will it be to level of West Bluff Dr, where will the bridge be

**B. Grove** will be entering at existing, 740' elevation, on the upper level of house at 743'

**R. Rhoads** bridge will be level with road

**B. Grove** yes, level or lower than road

**R. Williams** lower than road for plows

**B. Grove** existing shed is 13' off center line of road. Shed will be eliminated, big improvement of setback from center line with shed gone

**R. Rhoads** will this be a year round home

**D. Crawford** the intent is for it to be

**R. Rhoads** lot coverage is 4.3%, lots of land. Lots of positive comments from neighbors, including both adjacent on north and south sides.

**E. Makatura** setback off road, 26' to overhang and 30' to wall of structure

**B. Grove** that is for the bump out for covered entry

**R. Rhoads** by reinforcing bank and moving cottage up and towards road, isn't slope steepness increased for worse

**B. Grove** no, 3 sides of foundation act as retaining wall, on back side it will end up as a gentler slope

**L. Overgaard** will it be filled in

**B. Grove** yes, will be filled in with stone for drainage. 727' now and will be 731' to create depression around walkway and water around the house

**E. Makatura** house will be more off the mhw

**R. Rhoads** slide house to the south

**B. Grove** that would accomplish increasing distance of house from mhw on south, but would decrease on north end

**Jim Bird** steep slopes to planning board

**B. Grove** yes

**E. Makatura** 35' from road

**J. Bird** it was an ask from highway for the 35'

**R. Rhoads** some that are 10'

**E. Makatura** some one West Bluff that are close, not wanting to make more

**B. Grove** its 30', out of the ROW, no damage will be done to utilities. 35' on the upper side of the road with the garages to park perpendicular

**R. Rhoads** improvement to all mhw setbacks

**B. Grove** yes, northwest corner by 6" which is a 50% improvement so its not as imposing to the shoreline

**J. Bird** have granted less than 35', all set backs include overhangs

**B. Grove** shed is at 13' now, by removing that, setback is doubled by an increase to 26'. Plumbers were granted 30

**R. Rhoads** granted 30.2. Worried about angle of bank, potentially sluffing off and having road safety issues, safety issues with cars pulling out and pedestrians crossing to bridge

**E. Makatura** straight road section with good line of sight

**B. Grove** will appease the board by moving house towards the lake and to the south? (Grove and Crawford's had discussions of moving house location)

**J. Bird** 35' request from highway supervisor is only a request and not in writing

**E. Makatura** that's 10' closer than code

**J. Bird** the law is that you cannot expand the degree of non-conformity

**D. Crawford** other than non-conformity elements to be addressed, improvements being made by moving septic from under the boathouse into the proposed new house, removal of shed that's 13' from road.

**J. Bird** could go wider and narrower

**E. Makatura** north and south is closer to mhw

**R. Rhoads** could table application if you would like

**B. Grove** could table and talk to Tony about 35' guideline reasons

**R. Rhoads** Tony is not back to work yet

**B. Grove** would like Tony's input

**R. Rhoads** is it possible to have a discussion with Tony

**J. Bird** no

**R. Rhoads** who is Tony's representative

**J. Bird** the Town Board is, were not talking about a law here

**E. Makatura** the law is 44.75'

**J. Bird** exactly, that's what you're supposed to work off of, you're not supposed to work off of 35', you're supposed to work off of 45'

**L. Overgaard** could move house to other side of the road

**B. Grove** would be too steep on the other side

**Motion** by **R. Rhoads** to table application 5-2024 to the March 14 meeting. Seconded by **E. Makatura**; carried.

**R. Rhoads** requested a stake out or mark of the proposed home.

#### **App #4-2024**

Area Variance

Chuck Potter

Tax Map: (95.76-1-4) 3213 West Bluff Dr

**Bill Grove** Chuck (not present) recently bought property with limited parking. Access is from the upper level of existing double wide. Make small parking in front, move septic from back corner to front so it is easier to maintain, will leave leach lines in back where they are. Remove shed and install 9' redi-rock wall to driveway and park access around back of house.

**R. Rhoads** can driveway be installed on other side of property

**B. Grove** no, there is a stream that runs through and would be more difficult on excavate on swale/ditch

**R. Williams** will top of retaining wall be at grade

**B. Grove** yes, maybe a half block above, because of cut in, will not be going higher than needed

**E. Makatura** the bottom of the wall is right at the property line

**B. Grove** bottom block would be on the property line because bottom blocks are 5' wide versus the top blocks that are 28" wide

**R. Rhoads** will there be need to excavate on the neighbor's property

**B. Grove** shear cut will be to property line, no need to be on neighbors. Could swing the wall in by 4-5'. Seek the same variance but would only be on the corner of about 3'

**R. Rhoads** would Potter be okay with this

**B. Grove** yes, will speak on his behalf. Received comments back from Soil and Water to include an extra silt fence layer and to wrap farther around the front, wall drainage will be to the south side with a curtain drain to avoid water running down the driveway, and gutters will run to drain on the south side.

**R. Rhoads** read aloud Wendy Green's comments. (see attachment) zoning board does not have anything to do with easements, its for Potter and Green to handle themselves.

**B. Grove** property line is marked and will be sure not to excavate on neighbors property

**Motion** by **E. Makatura** to accept 3 ft side setback where 10 ft minimum is required, on north side of property for a 7' variance with stipulation that there is not excavation on the neighbors property, that plans will be revised to rotate wall further to the south and for wall not to exceed one (1) block course above grade. Furthermore, the Town of Jerusalem is nor liable for any personal or property damage due to steep grade of driveway. Homeowner is responsible for any and all safety and maintenance of driveaway and retaining wall. Seconded by **L. Overgaard**.

The board answered the 5 area variances questions.

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance?**

R. Williams – No

E. Makatura – No, makes property behind house usable

S. Schmidt- No

R. Rhoads- No

L. Overgaard- No

**2. Can the benefit sought by the applicant by some method, feasible for the applicant to pursue, other than an area variance?**

L. Overgaard- No, because otherwise if it was further from the property line you wouldn't be able to get from the driveway to the parking lot

S. Schmidt- No, driveway has to be certain width they are maintaining

E. Makatura- No

R. Williams – No, because of swinging south and because of lay of land

R. Rhoads- No

**3. Is the requested Area Variance substantial?**

- R. Rhoads- Yes, 7' variance if large variance
- L. Overgaard- Yes, same
- S. Schmidt- Yes
- E. Makatura- Yes, but it is only end of wall and is a retaining wall
- R. Williams- Yes, 7' variance

4. **Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?**

- E. Makatura- No
- R. Williams- No
- L. Overgaard- No
- R. Rhoads- No
- S. Schmidt- No

5. **In the alleged difficulty self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the Area Variance?**

- R. Rhoads- Yes, self created, not necessary to put in parking lot
- S. Schmidt- Yes
- R. Williams- Yes, he wants a parking lot back there
- L. Overgaard- Yes
- E. Makatura- Yes, same as Rodgers

The board was polled as follows:

- L. Overgard- Grant
- E. Makatura- Grant
- R. Williams- Grant
- S. Schmidt- Grant
- R. Rhoads- Grant

**Motion carried.**

OTHER BUSINESS:

**Motion** by **Rodgers Williams** that Town of Jerusalem shall maintain all digitally created records in their native digital format for the legally proscribed retention period of the record. The Town shall maintain all digital records adhering to the guidelines set forth in the Regulations of the Commissioner of Education Part 185.8. Copies of records in other formats, including paper, shall be deemed convenience copies and disposed of when no longer needed for reference or other administrative purposes. Seconded by **Randy Rhoads**; carried.

**Motion** by **Rodgers Williams** for the Town of Jerusalem Zoning Board meetings to be held on the second Thursday of each month at 7:00PM. Seconded by **Randy Rhoads**; carried.

**Rodgers Williams** noted that the next zoning training will be held March 21 and this training can be done from home.

Next Meeting –March 14th, 2024

**Motion** by **Randy Rhoads** to adjourn at 9:00pm. Seconded by **Earl Makatura**; carried.